

Regular Session, 2009

HOUSE BILL NO. 810

BY REPRESENTATIVE ARNOLD AND SENATORS BROOME AND DUPLESSIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FINANCIAL INSTITUTIONS: Provides relative to residential mortgage lending institutions

1 AN ACT

2 To amend and reenact R.S. 6:1081, 1082, 1083(3.1)(introductory paragraph), (3.2),
3 (4)(introductory paragraph), (5), (6), (9), (11), and (12), 1084, 1086, 1087(E) and
4 (F), 1088, 1088.1(A)(4) and (C), 1089, 1090(A), (C), (D), (E), (F), and (H), 1091,
5 1092(A)(introductory paragraph), (1), (5), (6), (B), (C), (E), (G), (I), and (K), 1092.2,
6 1094, 1096(I)(1), 1098(C), and 1099, and R.S. 9:3511(F), to enact R.S. 6:1083(6.1),
7 (13), (14), (15), (16), (17), (18), (19), and (20), 1087(D) and (G), 1088.1(A)(9) and
8 (E), 1088.2, 1088.3, 1088.4, 1092(A)(17)(a)(iv) and (v), 1094.1, and 1097(C) and
9 R.S. 9:3557(C), and to repeal R.S. 6:1083(1), 1092(A)(3), (4), (7), (8), (9), (10), (11),
10 (12), (13), (15), and (17), 1093, and R.S. 9:3560(A)(10), relative to mortgages; to
11 provide for a change in definitions; to provide for new definitions; to provide for
12 prohibitions for certain mortgage lenders; to provide for licensure requirements; to
13 provide for exemptions to licensure; to provide for application for licensure for
14 persons in the mortgage industry; to provide for surety bonds for persons in the
15 mortgage industry; to provide for a licensing system for persons in the mortgage
16 industry; to provide for fees; to provide for information reporting for persons in the
17 mortgage industry; to provide for notification of name or location changes and
18 closures for persons in the mortgage industry; to provide for restrictions for persons
19 in the mortgage industry; to provide for recordkeeping and retention of records for
20 persons in the mortgage industry; to provide for the investigation of persons in the
21 mortgage industry by the commissioner; to provide for the suspension and revocation

1 of licensure for persons in the mortgage industry; to provide for educational
2 requirements for licensure for persons in the mortgage industry; to provide for
3 testing of loan originators; to provide for residential mortgage loan brokerage
4 contracts; to provide for criminal penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 6:1081, 1082, 1083(3.1)(introductory paragraph), (3.2),
7 (4)(introductory paragraph), (5), (6), (9), (11), and (12), 1084, 1086, 1087(E) and (F), 1088,
8 1088.1(A)(4) and (C), 1089, 1090(A), (C), (D), (E), (F), and (H), 1091,
9 1092(A)(introductory paragraph), (1), (5), (6), (B), (C), (E), (G), (I), and (K), 1092.2, 1094,
10 1096(I)(1), 1098(C), and 1099 are hereby amended and reenacted and R.S. 6:1083(6.1), (13),
11 (14), (15), (16), (17), (18), (19), and (20), 1087(D) and (G), 1088.1(A)(9) and (E), 1088.2,
12 1088.3, 1088.4, 1092(A)(17)(a)(iv) and (v), 1094.1, and 1097(C) are hereby enacted to read
13 as follows:

14 §1081. Short title

15 This Chapter shall be known and may be cited as the "~~Residential Mortgage~~
16 ~~Lending Act~~" "Louisiana Secure and Fair Enforcement of Mortgage Licensing Act
17 of 2009" or the "Louisiana S.A.F.E. Residential Mortgage Lending Act".

18 §1082. Purpose

19 The Legislature of Louisiana does hereby declare that it is in the best interest
20 of the citizens of the state to protect consumers in the most important financial
21 investment most will make, the purchase of a home, by requiring the licensing and
22 ~~certification~~ regulation of residential mortgage lenders, brokers, and originators. The
23 purpose of this Chapter is to promote the safety and welfare of the people of the
24 state by providing for regulatory oversight and by establishing educational
25 requirements in a professional field in which unqualified individuals may injure or
26 mislead the public.

27 §1083. Definitions

28 As used in this Chapter:

29 * * *

(3.1) "Federally related mortgage loan" means an extension of credit to a consumer secured by a first mortgage on residential immovable property located in this state, including: a mobile home which will be immobilized pursuant to R.S. 9:1149.4, ~~located in this state~~, and designed principally for the occupancy of from one to four families; and which is one of the following:

* * *

(3.2) "Licensing system" means an online database which collects and stores application, license, enforcement action, and related information and is maintained by a third-party provider on a multistate basis. "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(4) "Mortgage broker" or "residential mortgage broker" means any person who, directly or indirectly, for compensation or the expectation of compensation, negotiates, places, or finds, or offers to negotiate, place, or find a residential mortgage loan for another person. "Mortgage broker" also shall include:

* * *

(5) "Mortgage lender" or "residential mortgage lender" means any person who, directly or indirectly, originates or makes, or offers to originate or make, a residential mortgage loan for another person.

(6) "Originator Mortgage loan originator" means a natural person who is an employee of a mortgage broker, mortgage lender, or person exempt from licensure, who is not acting as a mortgage broker as defined in this Section or as a mortgage lender as defined in this Section, who interviews the consumer in connection with the consumer's application for a residential mortgage loan. "Originator" does not include employees of a licensed mortgage broker or mortgage lender, or employees of a person who is exempt from licensure under the provisions of Part II of this Chapter, who perform clerical duties in connection with residential mortgage loan transactions, including but not limited to collecting financial information and other

1 ~~related documents that are part of the application process, ordering verifications of~~
2 ~~employment, verifications of deposits, requests for mortgage payoffs, and other loan~~
3 ~~verifications, appraisals, inspections, or engineering reports, or who perform the~~
4 ~~functions of a loan processor, at the direction of and subject to the supervision of the~~
5 ~~mortgage broker, mortgage lender, originator, or person exempt from licensure, who~~
6 ~~is responsible for such direction and supervision~~ an individual who for compensation
7 or gain or with the expectation of compensation or gain takes a residential mortgage
8 loan application or offers or negotiates terms of a residential mortgage loan.

9 (6.1) "Mortgage servicer loss mitigation specialist" means a person who on
10 behalf of the holder or mortgagee of a residential mortgage loan assists a borrower
11 to modify or refinance either temporarily or permanently the borrower's obligations
12 in order to avoid default or foreclosure of the residential mortgage loan.

13 * * *

14 (9) "Residential loan transaction" means any agreement by a consumer with
15 a mortgage broker, mortgage loan originator, or mortgage lender in connection with
16 a residential mortgage loan.

17 * * *

18 (11) "Residential mortgage lending activity" means an activity, including
19 electronic activity, engaged in for compensation or with the expectation of
20 compensation in connection with a residential loan transaction, including the
21 origination or funding of a residential mortgage loan and the negotiation and
22 placement, or offering to negotiate, place, or ~~find~~ fund a residential mortgage loan
23 for another person.

24 (12) "Residential mortgage loan" means:

25 ~~(a) A federally related mortgage loan, which is entered into on a closed-end~~
26 ~~credit basis as defined by 12 CFR §226.2(a)(10).~~

27 ~~(b) A consumer loan secured by a mortgage on residential immovable~~
28 ~~property not specifically contracted for under the Louisiana Consumer Credit Law.~~
29 ~~Consumer loans otherwise subject to the Residential Mortgage Lending Act may be~~

1 ~~made contractually subject to the Louisiana Consumer Credit Law by specifically~~
2 ~~stating that the loan is subject to the Louisiana Consumer Credit Law~~ any loan
3 primarily for personal, family, or household use that is secured by a mortgage, deed
4 of trust, or other equivalent consensual security interest on a dwelling as defined in
5 15 U.S.C. 1602(v) or residential immovable property upon which is constructed or
6 intended to be constructed a dwelling as defined in 15 U.S.C. 1602(v).

7 (13) "Depository institution" means the same as 12 U.S.C. 1813(c).

8 (14) "Immediate family member" means a spouse, child, sibling, parent,
9 grandparent, grandchild, including stepparent, stepchild, stepsibling, and adoptive
10 relationships.

11 (15) "Nationwide Mortgage Licensing System and Registry", "licensing
12 system", or "NMLS&R" means a mortgage licensing system developed and
13 maintained by the Conference of State Bank Supervisors and the American
14 Association of Residential Mortgage Regulators or successors thereof, for the state
15 licensing and registration of state-licensed mortgage loan originators and the
16 registration of registered loan originators as provided in P.L. 110-289, Title V, as
17 amended, which licensing system includes but not limited to an online database
18 which receives, collects, and stores application, license, enforcement action, and
19 related information on a multi-state basis.

20 (16) "Real estate brokerage activity" means any activity that involves
21 offering or providing real estate brokerage services to the public, including any of
22 the following:

23 (a) Acting as a real estate agent or real estate broker for a buyer, seller,
24 lessor, or lessee of immovable property.

25 (b) Bringing together parties interested in the sale, purchase, lease, rental,
26 or exchange of immovable property.

27 (c) Negotiating, on behalf of any party, any portion of a contract relating to
28 the sale, purchase, lease, rental, or exchange of immovable property, other than in
29 connection with providing financing with respect to any such transaction.

1 (d) Engaging in any activity for which a person engaged in the activity is
2 required to be registered or licensed as a real estate agent or real estate broker under
3 any applicable law.

4 (17) "Registered mortgage loan originator" means any individual who meets
5 the definition of mortgage loan originator and is an employee of a depository
6 institution or a subsidiary that is either owned and controlled by a depository
7 institution and regulated by a federal banking agency or an institution regulated by
8 the Farm Credit Administration and is registered with, and maintains a unique
9 identifier through, the Nationwide Mortgage Licensing System and Registry. For the
10 purposes of this Paragraph, "employee" shall include a natural person who is an
11 agent of a depository institution or its controlled and regulated subsidiary acting
12 under the management and supervision of the depository institution or its controlled
13 regulated subsidiary and subject to the oversight of a banking agency, but only if:

14 (a) The natural person enters into a written agreement prohibiting the
15 individual from soliciting, processing, negotiating, or placing a mortgage loan with
16 a person other than the institution or its controlled and regulated subsidiary.

17 (b) The natural person would not be barred from licensure pursuant to R.S.
18 6:1088(E)(2), (3), or (4), as determined by the commissioner.

19 (c) The natural person acknowledges that he is subject to the authority of the
20 commissioner under R.S. 6:1091 and 1092, as applicable.

21 (d) A financial institution acceptable to the commissioner shall have:

22 (i) Provided an undertaking of accountability supported by a surety bond
23 equal to one million dollars, to meet the requirement of R.S. 6:1088(G)(1) and to
24 cover all of the natural persons who are considered to be employees under this
25 Section, which undertaking includes full and direct financial responsibility for the
26 loan origination activities of each such natural person.

27 (ii) Paid an annual fee of one half the license fee for a mortgage loan
28 originator under R.S. 6:1088.2(A)(4) times the number of natural persons who are

1 considered exclusive agents under this Section as of December thirty-first of the
2 preceding year, as determined by the commissioner.

3 (iii) Provided a business plan acceptable to the commissioner that sets forth
4 the education program for the natural persons, the handling of consumer complaints
5 related to the natural persons, and the supervision of the loan origination activities
6 of the natural persons. The provisions of the business plan shall be the following:

7 (aa) The commissioner shall have forty-five days in which to accept or deny
8 the business plan from its receipt. If the commissioner does not accept or reject the
9 plan within forty-five days, the plan will be deemed accepted. If the plan is rejected
10 within forty-five days, the commissioner shall make recommendations in writing to
11 the financial institution as to changes in the plan that would render it acceptable.

12 (bb) If the plan is rejected, the financial institution shall have forty-five days
13 to make recommended changes to the plan and resubmit it to the commissioner for
14 reconsideration.

15 (cc) The commissioner shall then have fifteen days from the receipt of the
16 resubmitted plan to accept or deny the resubmitted plan. If the resubmitted plan is
17 not accepted or rejected within fifteen days, the plan shall be deemed accepted.

18 (dd) The denial of the plan or dissatisfaction with the substance of the plan
19 shall entitle the applicant to a hearing before the division of administrative law,
20 provided the applicant has filed notice requesting the hearing with the commissioner
21 within fifteen days of the receipt of the commissioner's decision. The commissioner
22 shall forward the request and any supporting documents to the division of
23 administrative law within ten days. Such hearing shall be scheduled to take place
24 within sixty days from the date a request is received by the division of administrative
25 law, unless continued by all parties, and a decision shall be rendered as expeditiously
26 as possible.

27 (ee) Any applicant aggrieved by the division of administrative law's decision
28 shall be entitled to judicial review pursuant to R.S. 49:950 et seq. in the Nineteenth
29 Judicial District Court, which shall conduct a de novo review. Such action is entitled

1 to priority and preference over all other pending civil matters such that a decision
2 should be rendered as expeditiously as possible.

3 (18) "Residential immovable property" means any immovable property
4 located in this state upon which is constructed or intended to be constructed a
5 dwelling.

6 (19) "State" means any state of the United States, the District of Columbia,
7 or any territory of the United States including Puerto Rico, Guam, American Samoa,
8 the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern
9 Mariana Islands.

10 (20) "Unique identifier" means a number or other identifier assigned by
11 protocols established by the Nationwide Mortgage Licensing System and Registry.

12 §1084. Prohibition

13 A. No person, directly or indirectly, shall engage in a residential mortgage
14 lending activity in this state without complying with the provisions of this Chapter
15 or the rules or regulations promulgated pursuant to this Chapter.

16 B. It shall be a violation of this Chapter for a person or individual engaged
17 in residential mortgage lending activity subject to this Chapter to:

18 (1) Directly or indirectly employ any scheme, device, or artifice to defraud
19 or mislead borrowers, lenders, or any person.

20 (2) Engage in any unfair or deceptive practice toward any person.

21 (3) Obtain property by fraud or misrepresentation.

22 (4) Solicit or enter into a contract with a borrower that provides that the
23 person or individual subject to this Chapter may earn a fee or commission to obtain
24 a loan even though no loan is actually obtained for the borrower.

25 (5) Solicit, advertise, or enter into a contract for specific interest rates,
26 points, or other financing terms unless the terms are actually available at the time of
27 soliciting, advertising, or contracting.

28 (6) Conduct any business covered by this Chapter without holding a valid
29 license as required under this Chapter, or assist or aid and abet any person in the

1 conduct of business under this Chapter without a valid license as required under this
2 Chapter.

3 (7) As determined by the commissioner, structure a residential loan
4 transaction in such a manner as to circumvent the provisions of this Chapter.

5 (8) Fail to comply with this Chapter or rules or regulations promulgated
6 under this Chapter, or fail to comply with any other state or federal law, including
7 the rules and regulations issued thereunder, applicable to any residential mortgage
8 lending activity.

9 (9) Make, in any manner, any false or deceptive statement or representation
10 with regard to the rates, points, or other financing terms or conditions for a
11 residential mortgage loan, or engage in bait and switch advertising.

12 (10) Negligently make any false statement, or knowingly and willfully make
13 any omission of material fact, in connection with any information or reports filed
14 with a governmental agency or the NMLS&R, or in connection with any
15 investigation conducted by the commissioner or any other governmental agency.

16 (11) Make any payment, threat, or promise, directly or indirectly, to any
17 person for the purposes of influencing the independent judgment of the person in
18 connection with a residential mortgage loan, or make any payment, threat, or
19 promise, directly or indirectly, to any appraiser of a property, for the purposes of
20 influencing the independent judgment of the appraiser with respect to the value of
21 the property.

22 (12) Collect, charge, attempt to collect or charge, or use or propose any
23 agreement purporting to collect or charge any fee prohibited by this Chapter.

24 (13) Engage in loan processing or underwriting activities as an independent
25 contractor without obtaining a license to act as a residential mortgage loan originator.

26 (14) Fail to truthfully account for monies belonging to a party to a residential
27 mortgage loan transaction.

28 (15) Have knowingly provided or caused to be provided to the commissioner
29 any false or fraudulent misrepresentation of material fact, any false or fraudulent

1 financial statement, or has suppressed or withheld from the commissioner any
2 information which, if submitted by him, would have resulted in denial of the license
3 application.

4 (16) Refuse to permit an examination by the commissioner of his books and
5 affairs, or has refused or failed within a reasonable time to furnish any information
6 or make any report that may be required by the commissioner under the provisions
7 of this Chapter.

8 (17) Violate any provision of a regulatory or prohibitory statute and has been
9 found to have violated such statute by the governmental agency responsible for
10 determining such violations.

11 (18) Misrepresent material facts or makes false promises likely to influence,
12 persuade, or induce an applicant into making a residential mortgage loan or a
13 mortgagor into taking a mortgage loan, or pursues a course of misrepresentation
14 through agents or otherwise.

15 (19) Misrepresent or conceal material facts, terms, or conditions of a
16 transaction to which he is a party, pertinent to an applicant for a mortgage loan, or
17 a mortgagor.

18 (20) Knowingly engage in any transaction, practice, or course of business
19 which perpetrates a fraud upon any person in connection with the making,
20 purchasing, sale, or brokering of any mortgage loan.

21 (21) Fail to account for or deliver to any person any personal property
22 obtained in connection with a residential mortgage loan, including but not limited to
23 money, funds, deposits, checks, drafts, mortgages, or other documents or things of
24 value, which has come into his hands and which is not his property, or which he is
25 not entitled by law to retain.

26 (22) Fail to disburse, without just cause, any funds in accordance with any
27 agreement connected with a residential mortgage loan.

28 (23) Fail to pay any fee or assessment imposed by this Chapter or by any rule
29 or regulation promulgated in accordance with this Chapter.

(24) Represent to the public through advertising or other means of communicating or providing information including the use of business cards, stationary brochures, signs, rate lists, or other promotional items, that such an individual can or will perform any activities of a mortgage loan originator, while such individual engages in activities solely as a loan processor or underwriter.

C. The violations listed in this Section are nonexclusive, and are in addition to and exist independent of, any other violations set forth in other provisions of this Chapter. Failure to comply with any provision set forth herein may serve as a basis for any enforcement or other action accorded the commissioner under this Title.

* * *

§1086. Licensure requirement

A. ~~Beginning January 1, 2000, no person shall engage in any residential mortgage lending activity in this state unless such person has first obtained a license in accordance with the provisions of this Chapter. Any person engaged in residential mortgage lending activities in this state on January 1, 1999, may continue to be so engaged and shall by March 1, 2000, have applied for a license and by July 1, 2000, have obtained a license.~~ Except as otherwise provided in Subsection B of this Section, beginning on July 31, 2009, and unless otherwise exempt pursuant to this Chapter, no person shall engage in any residential mortgage lending activity in this state without first obtaining and maintaining annually the following:

(1) A license and registration as a mortgage loan originator, or a license as
a mortgage lender or broker.

(2) A unique identifier.

B. Any mortgage broker license in effect on July 9, 1999, shall remain in effect and shall be renewed after January 1, 2000, in accordance with the provisions of this Chapter. Until July 31, 2010, the provisions of Subsection A of this Section shall not apply to the following:

(1) A person whose residential mortgage lending activities were not subject
to the licensing requirements pursuant to this Chapter on July 30, 2009.

(2) A person engaged in residential mortgage lending activities pursuant to an exemption provided by this Chapter on July 30, 2009.

C. ~~Any mortgage broker or lender engaged in residential mortgage lending activities pursuant to an exemption granted under R.S. 6:1087(C), with an active registration filed pursuant to R.S. 6:1087(D), may continue to be so engaged until expiration of the exemption on January 1, 2004. Thereafter, no mortgage broker or lender previously exempt pursuant to R.S. 6:1087(C) may engage in residential mortgage lending activity without a license.~~ Beginning July 31, 2009, all persons to whom a license was issued and in effect pursuant to this Chapter on July 30, 2009, shall be required to meet all the requirements of this Chapter in order to obtain a renewal of a license issued pursuant to this Chapter.

§1087. Exemptions; annual registration statement; fees

* * *

D. Persons engaged in residential mortgage transactions subject to an exemption provided for in Subsection A, B, or C of this Section on or before July 30, 2009, may continue to be so engaged until July 30, 2010. Thereafter, the exemptions provided in Subsection A, B, or C of this Section shall expire and no longer have any effect. Effective July 31, 2010, no person previously exempt pursuant to Subsection A, B, or C of this Section may engage in residential mortgage lending activity without a license and a unique identifier issued pursuant to this Chapter, unless such person is exempt under an exemption provided for in this Chapter on or after July 31, 2009.

~~E. The commissioner may promulgate regulations authorizing the licensure and license renewal of persons otherwise exempt from licensure under this Part who wish to be licensed as provided in this Part. The regulations shall establish the conditions under which exempt persons may obtain licensure and the effects of such licensure, including but not limited to the extent of the examination and enforcement authority of the commissioner over such persons, but in no event shall the professional education requirements be less than those applicable to licensees~~

1 ~~generally.~~ The following shall be exempt from the licensing provisions of this
2 Chapter applicable to persons engaged in residential mortgage lending activities as
3 a residential mortgage loan originator:

4 (1) Registered mortgage loan originators, when acting for an entity described
5 in R.S. 6:1083(13).

6 (2) Any individual who offers or negotiates terms of a residential mortgage
7 loan with or on behalf of an immediate family member of the individual.

8 (3) Any individual who offers or negotiates terms of a residential mortgage
9 loan secured by a dwelling that is owned by and serves as the individual's residence.

10 (4) A licensed attorney who negotiates the terms of a residential mortgage
11 loan on behalf of a client as an ancillary matter to the attorney's representation of the
12 client, unless the attorney is compensated by a lender, a mortgage broker, or other
13 mortgage loan originator, or by any agent of such lender, mortgage broker, or other
14 mortgage loan originator.

15 (5) Any individual who performs only real estate brokerage activities and is
16 licensed or registered in accordance with applicable state law, unless the person or
17 entity is compensated by a lender, a mortgage broker, or other mortgage loan
18 originator, or by any agent of such lender, mortgage broker, or other mortgage loan
19 originator.

20 (6) Any individual solely involved in extensions of credit relating to
21 timeshare plans, as that term is defined in 11 U.S.C. 101(53D).

22 (7) An individual engaging solely in loan processor or underwriter activities,
23 who does not represent to the public, through advertising or other means of
24 communicating or providing information, including the use of business cards,
25 stationery, brochures, signs, rate lists, or other promotional items, that such
26 individual can or will perform any of the activities of a mortgage loan originator.
27 For the purposes of this Paragraph, the term "loan processor or underwriter" means
28 an individual who performs clerical or support duties as an employee at the direction
29 of and subject to the supervision and instruction of a person licensed, or exempt from

1 licensing under this Chapter. For purposes of this Paragraph, the term "clerical or
2 support duties" may include subsequent to the receipt of an application:

3 (a) The receipt, collection, distribution, and analysis of information common
4 for the processing or underwriting of a residential mortgage loan.

5 (b) Communicating with a consumer to obtain the information necessary for
6 the processing or underwriting of a loan, to the extent that such communication does
7 not include offering or negotiating loan rates or terms, or counseling consumers
8 about residential mortgage loan rates or terms; provided however that an independent
9 contractor may not engage in residential mortgage loan origination activities as a
10 loan processor or underwriter unless such independent contractor obtains and
11 maintains a license under this Part. Each independent contractor loan processor or
12 underwriter licensed as a mortgage loan originator shall have and maintain a valid
13 unique identifier issued by the NMLS&R.

14 (8) Individuals who are employees of a retailer of manufactured or modular
15 homes as defined in R.S. 51:911.21 et. seq., if the employees are performing only
16 administrative or clerical tasks in connection with the sale or lease of a manufactured
17 or modular home and provided such individuals receive no compensation or other
18 gain from a residential mortgage lender or a residential mortgage broker for the
19 performance of the administrative or clerical tasks.

20 (9) The commissioner may exempt mortgage servicer loss mitigation
21 specialists if he determines that an exemption of a mortgage servicer loss mitigation
22 specialist is compliant with the minimum standards set forth in P.L. 110-289, Title
23 V.

24 ~~F. Pursuant to regulations adopted by the commissioner, no residential~~
25 ~~mortgage lender shall enter into a residential mortgage lending transaction with a~~
26 ~~person who is not in compliance with the licensing provisions of this Chapter as a~~
27 ~~mortgage broker, mortgage lender, or originator. The following employers and their~~
28 ~~employees shall be exempt from the residential mortgage lender and mortgage~~
29 ~~broker licensing provisions of this Part:~~

1 (1) Any attorney licensed to practice law when such attorney is not actively
2 engaged in the business of making or brokering residential mortgage loans and the
3 residential mortgage lending activity is incidental to providing legal services.

4 (2) Any nonprofit corporation exempt from federal taxation under Section
5 501(c) of the Internal Revenue Code making residential mortgage loans to promote
6 home ownership or home improvements for the disadvantaged.

7 (3) Any agency of the federal government, or a state or municipal
8 government, or any quasi governmental agency making residential mortgage loans
9 under the specific authority of the laws of any state or the United States.

10 (4) Any person acting as a fiduciary with respect to any employee pension
11 benefit plan qualified under the Internal Revenue Code who makes residential
12 mortgage loans solely to plan participants from plan assets.

13 (5) Any real estate investment trust.

14 (6) Any person acting in a fiduciary capacity conferred by the authority of
15 any court.

16 (7) Any person licensed as a small business investment company by the
17 United States Small Business Administration.

18 (8) Any insurance company authorized by the insurance commissioner of
19 this state or any other state and any resident or nonresident insurance producer who
20 holds an unexpired producer license under Title 22 of the Louisiana Revised Statutes
21 of 1950 who brokers loans exclusively to an insurer.

22 (9) Any depository institution or direct or indirect subsidiary thereof
23 regulated by a federal banking agency.

24 (10) Any mortgagee in a residential loan transaction in which the mortgagee
25 is the owner of the dwelling or residential immovable property.

26 G. Any person exempt from licensure pursuant to Subsection F of this
27 Section shall engage in residential mortgage lending activities only through natural
28 persons who are licensed or registered as a mortgage broker, mortgage lender, or

1 mortgage loan originator according to the provisions of this Chapter, or who are
2 exempt from the provisions of this Part.

3 §1088. Application for licensure; surety bond ~~issuance of licenses; application and~~
4 ~~renewal fees~~

5 A. An application for a license under this Chapter shall be made ~~in writing,~~
6 under oath; and on a form prescribed by the commissioner. The commissioner may
7 grant restricted or conditional licenses. Each license shall expire on December
8 thirty-first of the year in which the license was issued.

9 B. In addition to any other duties imposed upon the commissioner by law,
10 the commissioner shall require mortgage loan originators, mortgage lenders, and
11 mortgage brokers to be licensed and registered through the NMLS&R and for this
12 purpose the commissioner may establish such application information requirements
13 and any other information as he deems necessary to participate in the NMLS&R. For
14 the purposes of participating in the NMLS&R, the commissioner may waive or
15 modify in whole or in part by rule, any requirements set forth in this Chapter and set
16 forth such new requirements as he deems reasonably necessary to participate in the
17 NMLS&R. In order to facilitate an orderly transition to the licensing requirements
18 of this Chapter and to ensure timely receipt and consideration, the commissioner may
19 direct that certain information, documents, or other items required pursuant to this
20 Chapter be furnished to the commissioner or to the NMLS&R, and may be furnished
21 periodically and separately from an application.

22 ~~C.(1) Each applicant for licensing as a mortgage lender or a mortgage~~
23 ~~broker, or both, shall, at the time of application for licensure or any renewal of a~~
24 ~~license, provide evidence of financial responsibility and solvency in one of the~~
25 ~~following forms:~~

26 ~~(a) An audited financial statement prepared by a certified public accountant~~
27 ~~that meets the independent requirements of the profession. The applicant shall~~
28 ~~maintain a net worth of fifty thousand dollars or more during the licensing year. The~~
29 ~~date of the audit must be no more than eighteen months prior to the application or~~

1 renewal date. The licensee must submit the annual audit to the commissioner within
2 sixty days of receipt of such audit. Failure to submit the audited financial statements
3 or furnish other acceptable evidence of financial responsibility within the time
4 periods required by this Subsection may result in a late filing fee not to exceed one
5 thousand dollars and may result in suspension or revocation of licenses in accordance
6 with the provisions of this Chapter.

7 (b) ~~A deposit, irrevocably pledged to the commissioner, of fifty thousand~~
8 dollars in a federally insured depository institution located in Louisiana, designated
9 by the applicant, and approved by the commissioner. The applicant shall receive all
10 interest earned on the deposit.

11 (c) ~~Securities of a type approved by the commissioner, including but not~~
12 limited to bonds of the state or any of its political subdivisions or bonds of the
13 United States government, having a value of not less than fifty thousand dollars
14 irrevocably pledged to the commissioner. The applicant shall receive all interest or
15 dividends earned on the securities.

16 (d) ~~A surety bond authorized by a surety insurer licensed to do business in~~
17 this state in the amount of fifty thousand dollars. The surety bond shall name the
18 office of financial institutions and shall be filed with the application or renewal.

19 (2) ~~An applicant who is a natural person and is employed by a juridical~~
20 person engaging in residential mortgage lending activities as a mortgage broker or
21 mortgage lender may demonstrate his financial responsibility and solvency by
22 submitting evidence that his employer satisfies the requirements established in this
23 Subsection. In addition to any other application information requirements of the
24 commissioner, an applicant for licensure pursuant to this Chapter shall, in connection
25 with an application for licensing, furnish to the commissioner, or if application
26 procedures permit, to the Nationwide Mortgage Licensing System and Registry, each
27 of the following:

28 (1) Fingerprints for submission to the Federal Bureau of Investigation, and
29 any governmental agency or entity authorized to receive such information for a state,

1 national, or international criminal history background check; provided however, that
2 any person licensed on July 30, 2009, may satisfy this requirement by complying
3 with the provisions of R.S.6:121.2, until the earlier of being directed otherwise by
4 the commissioner, or until December 31, 2010. For purposes of this Paragraph and
5 Paragraph (3) of this Subsection, the commission may use the NMLS&R as a
6 channeling agent for requesting and distributing information to and from any source
7 as directed by the commissioner.

8 (2) Personal history and experience in a form prescribed by the NMLS&R,
9 and when available through the NMLS&R.

10 (3) Authorization for the NMLS&R and the commissioner to obtain:

11 (a) An independent credit report obtained from a consumer reporting agency
12 described in the Fair Credit Reporting Act, 15 U.S.C. 1681 et. seq.

13 (b) Information related to any administrative, civil, or criminal findings by
14 any governmental jurisdiction; provided however, that persons licensed on July 30,
15 2009 need not furnish such authorization until the earlier of being directed to do so
16 by the commissioner, or December 31, 2010.

17 ~~D. If the applicant has multiple office locations, all such locations may be~~
18 ~~covered by a single license by including in the license application the address of each~~
19 ~~office operated by the applicant and the name and license number of the individual~~
20 ~~licensees engaging in residential mortgage lending activities at that location. To~~
21 comply with the requirements of this Section, an applicant for a mortgage lender or
22 mortgage broker license shall furnish the required information as to each owner and
23 member if the applicant is a partnership or limited liability company, each officer,
24 director, and direct or indirect owner of ten percent or more of applicant's
25 outstanding shares if the applicant is a corporation, and each settlor, trustee, and
26 beneficiary if the applicant is a trust.

27 ~~E. The application shall be accompanied by the following nonrefundable fees~~
28 ~~as determined by and payable to the commissioner.~~

1 ~~(1) In the case of an application for a license to act as a mortgage lender, a~~
2 ~~mortgage broker, or both, a license fee in an amount not to exceed four hundred~~
3 ~~dollars.~~

4 ~~(2) In the case of an application for a license to act as an originator, a license~~
5 ~~fee in an amount not to exceed one hundred dollars.~~

6 ~~(3) An annual license renewal fee for each person licensed as a mortgage~~
7 ~~broker or mortgage lender in an amount not to exceed three hundred dollars. An~~
8 ~~annual license renewal application received by the commissioner postmarked after~~
9 ~~December first shall be accompanied by a late filing fee of two hundred dollars, in~~
10 ~~addition to the annual license renewal fee.~~

11 ~~(4) An annual license renewal fee for each originator in an amount not to~~
12 ~~exceed one hundred dollars. An annual license renewal application received by the~~
13 ~~commissioner postmarked after December first shall be accompanied by a late filing~~
14 ~~fee of fifty dollars, in addition to the annual license renewal fee. Notwithstanding~~
15 ~~any other law to the contrary, the commissioner may not issue a mortgage loan~~
16 ~~originator license, unless the commissioner finds that the applicant has the following~~
17 ~~minimum requirements:~~

18 ~~(1) Paid all fees due to the office of financial institutions.~~

19 ~~(2) Never had a mortgage loan originator license, mortgage lender license,~~
20 ~~or mortgage broker license revoked in any governmental jurisdiction unless such~~
21 ~~revocation is subsequently formally vacated.~~

22 ~~(3) Has not been convicted of, pleaded guilty or nolo contendere to and has~~
23 ~~been adjudicated guilty of a felony in a domestic, foreign, or military court during~~
24 ~~the seven year period preceding the date of application for licensing and registration~~
25 ~~or at any time preceding such date of application if such felony involved an act of~~
26 ~~fraud, dishonesty, or a breach of trust, or money laundering; provided however that~~
27 ~~any conviction for which an individual has received a pardon, the effect of which,~~
28 ~~according to the law of the jurisdiction granting the pardon, is to void the fact of the~~
29 ~~conviction, shall not be deemed a conviction for the purposes of this Subsection.~~

1 (4) Demonstrates financial responsibility, character, and general fitness such
2 as to command the confidence of the community and to warrant a determination that
3 the mortgage loan originator, mortgage lender, or mortgage broker will operate
4 honestly, fairly, and efficiently within the purposes of this Chapter.

5 (5) Has completed the pre-licensing education requirement described in this
6 Chapter.

7 (6) Has passed a written test that meets the test requirement described in this
8 Chapter.

9 (7) Has obtained and maintains a surety bond in the amount required by this
10 Section.

11 ~~F.(1) Each person licensed as a mortgage broker or mortgage lender shall file~~
12 ~~an annual license renewal application on or before November first of each year on~~
13 ~~a form prescribed by the commissioner.~~

14 ~~(2) Each originator shall file an annual license renewal application on or~~
15 ~~before November first of each year on a form prescribed by the commissioner.~~

16 ~~(3) Annual renewal applications shall be accompanied by the appropriate~~
17 ~~filing fee. Annual license renewal applications received by the commissioner~~
18 ~~postmarked after December first shall be charged a late filing fee.~~

19 ~~(4) A license for which a renewal application was timely filed on or before~~
20 ~~the December thirty-first license expiration date shall remain in force and effect until~~
21 ~~such application is approved or rejected by the commissioner. An application for~~
22 ~~renewal shall not require a new licensing decision by the commissioner and may~~
23 ~~only be rejected for failure to utilize the licensing system, incompleteness, failure to~~
24 ~~maintain the financial responsibilities required by this Section, or failure to pay any~~
25 ~~penalty which was previously accrued or imposed upon the applicant. Nothing in~~
26 ~~this Section shall preclude the commissioner from implementing any administrative~~
27 ~~or enforcement action authorized by this Title for violations or material~~
28 ~~misrepresentation which may have occurred prior to the renewal date of a license.~~
29 ~~Licenses for which renewal applications are filed after December thirty-first shall be~~

1 ~~deemed to have expired automatically on January first unless the applicant shows~~
2 ~~good cause for late renewal and pays a reinstatement penalty in an amount not to~~
3 ~~exceed one thousand dollars.~~

4 ~~(5) A natural person, licensed as a mortgage broker, mortgage lender, or~~
5 ~~originator, who, during the course of the year, becomes exempt from licensure, or~~
6 ~~becomes inactive in residential mortgage lending activities, may maintain his license~~
7 ~~by filing the annual license renewal application, paying the annual license renewal~~
8 ~~fee, and by satisfying the continuing professional education requirements for renewal~~
9 ~~established by this Chapter. Notwithstanding any other law to the contrary, the~~
10 ~~commissioner may not issue a mortgage lender license or a mortgage broker license~~
11 ~~unless the commissioner makes the minimum findings provided in Paragraphs (E)~~
12 ~~(1), (2), (3), and (4) of this Section, and as to each owner, partner, and member if the~~
13 ~~applicant is a partnership or a limited liability company ,each officer, director, and~~
14 ~~direct or indirect owner of ten percent or more of the outstanding shares if the~~
15 ~~applicant is a corporation, and each settlor, trustee, and beneficiary if the applicant~~
16 ~~is a trust.~~

17 ~~G.(1)(a) No license shall be issued upon the filing of an application by a~~
18 ~~person upon whom any penalty or fee has been imposed unless and until such~~
19 ~~penalty or fee has been paid. No new originator license shall be issued upon the~~
20 ~~filing of an application until any and all penalties or fees owed by the residential~~
21 ~~mortgage lender who employs or will employ the applicant have been paid. This~~
22 ~~Section shall not be applicable to any fee or penalty which is subject to an~~
23 ~~administrative action pursuant to the Administrative Procedure Act.~~

24 ~~(b) No license shall be issued unless the commissioner, upon investigation,~~
25 ~~finds that the financial responsibility, character, and fitness of the applicant, its~~
26 ~~owners, and its members, if the applicant is a partnership, and its officers and~~
27 ~~directors, if the applicant is a corporation, are such as to warrant a belief that the~~
28 ~~business will be conducted honestly and fairly within the purposes of this Chapter.~~
29 ~~The commissioner may grant restricted or conditional licenses.~~

1 (c) ~~Notwithstanding the provisions of R.S. 37:2950, when determining an~~
2 ~~applicant's character and fitness, the commissioner may consider the criminal record~~
3 ~~of an applicant for a new license or a renewal thereof, and may deny such application~~
4 ~~if the applicant's criminal record includes a plea of guilty or nolo contendere to, or~~
5 ~~conviction of, any felony within ten years of the date of submission of the~~
6 ~~application.~~

7 (2)(a) ~~Upon written request, an applicant is entitled to a hearing on the~~
8 ~~question of his qualification for a license if either:~~

9 (i) ~~The commissioner has notified the applicant in writing that his~~
10 ~~application has been denied.~~

11 (ii) ~~The commissioner has not issued a license within sixty days of the date~~
12 ~~the application for licensure was filed.~~

13 (b) ~~A request for a hearing may not be made more than thirty days after the~~
14 ~~applicant has received the written notice notifying him that the application was~~
15 ~~denied and stating the commissioner's findings in support of the denial of the~~
16 ~~application.~~

17 (3) ~~Any person whose application or renewal application for licensure under~~
18 ~~this Chapter has been denied for any reason may not reapply for a license under this~~
19 ~~Chapter until at least three years have elapsed from the date of the order of denial,~~
20 ~~unless the commissioner, in his sole discretion, prescribes an earlier date or later~~
21 ~~date. For purposes of this Paragraph, the order shall be considered to be the first to~~
22 ~~occur of either the date of the issuance of the commissioner's notification of denial~~
23 ~~of the person's application, or sixty days after the filing of that application, and a~~
24 ~~person shall include the applicant, its owners, and its members if the applicant is a~~
25 ~~limited liability company, its partners, if the applicant is a partnership, its officers~~
26 ~~and directors, if the applicant is a corporation, and any other person determined by~~
27 ~~the commissioner, in his sole discretion, to be closely related to the person.~~

28 (4) ~~Beginning July 1, 2000, no natural person shall be licensed as a mortgage~~
29 ~~broker, mortgage lender, or originator unless the applicant is certified as provided~~

1 ~~in this Chapter.~~ (1) Each applicant for any license governed by this Chapter shall,
2 at the time of application for licensure or any renewal of a license, provide evidence
3 of obtaining and maintaining a surety bond as provided for in this Section.
4 Notwithstanding any other law to the contrary, or any other provision of this
5 Chapter, a person who was licensed and met the financial responsibility requirements
6 in whatever manner permitted by this Chapter on July 30, 2009, and who thereafter
7 continuously meets those requirements in a manner permitted by this Chapter on July
8 30, 2009, shall be deemed in compliance with the requirements of this Subsection
9 until December 31, 2009.

10 (2) The applicant shall furnish a surety bond authorized by a surety insurer
11 licensed to do business in this state. The surety bond shall name the office of
12 financial institutions and shall be submitted as prescribed by the commissioner in
13 connection with the application or renewal application.

14 (3) The required amount of the surety bond shall be determined by
15 information in a report submitted by an applicant or licensee as prescribed by the
16 commissioner. The total dollar amount of the original outstanding principal balance
17 of all residential mortgage loans originated by the applicant secured by immovable
18 property located in this state, including all such loans originated by mortgage loan
19 originators employed by the applicant during the previous calendar year and reported
20 pursuant to this Subsection shall be used to determine the amount of the bond. The
21 required amount of the bond shall be determined by information in a report of total
22 loan volume submitted by the applicant as prescribed by the commissioner. Total
23 loan volume of the applicant shall be calculated by adding all of the following:

24 (a) The total dollar volume of loans which were originated by an applicant
25 or licensee and funded by a mortgage lender.

26 (b) Total dollar volume of loans originated and funded by same applicant or
27 licensee.

28 (c) The total dollar volume of loans funded by an applicant which were
29 originated by a mortgage broker.

(4) The total dollar loan volume reported for the previous year shall be used to determine the amount of the surety bond required in accordance with the following:

<u>Dollar Amount of Total Loan</u>	<u>Required Amount of Surety Bond</u>
<u>Volume in Previous Calendar Years</u>	
<u>Lenders, Brokers, and Originators</u>	
<u>\$0 - \$99,999,999</u>	<u>\$25,000</u>
<u>\$100,000,000 or greater</u>	<u>\$50,000</u>

H. All persons licensed by the commissioner pursuant to this Part shall maintain a surety bond, according to the provisions of this Section, at all times during licensure and at all times that they are required to be licensed, as determined by the commissioner.

I. Notwithstanding any other law to the contrary, in lieu of obtaining a surety bond, all applicants may meet the requirements of this Section by depositing in a federally insured depository institution located in Louisiana, designated by the applicant and approved by the commissioner, an amount equal to the amount of the surety bond otherwise required by the provisions of this Section, provided that the title of any such deposit account must include the words "for the benefit of" or "f/b/o the Louisiana Office of Financial Institutions", and require such other evidence of and information regarding such account as he may deem appropriate, provided that interest earned on such account shall be payable to person or entity making the deposit.

J. An applicant for a mortgage originator license who is employed by, or is an exclusive agent for, a juridical person engaging in residential mortgage lending activities as a licensed mortgage broker or mortgage lender may satisfy the requirement of furnishing a surety bond by submitting evidence in a form and manner satisfactory to the commissioner that his employer or principal has obtained a surety bond which satisfies the requirements of this Section. Notwithstanding any provision of law to the contrary, a mortgage originator whose license remains in a

1 status of inactive or any other status which would not allow them to originate
2 mortgage loans shall not be required to maintain the surety bond as required by this
3 Section until such time as their license is returned to a status which allows them to
4 originate mortgage loans.

5 §1088.1. Licensing system; authorization; fees; required use

6 A. Consistent with both the public interest and the purposes of this Chapter,
7 the commissioner shall have the authority to take all action regarding the licensing
8 system, in his discretion as he deems necessary and appropriate, including but not
9 limited to all of the following:

10 * * *

11 (4) Authorizing the licensing system to collect fingerprints on the
12 commissioner's behalf in order to receive criminal history records from the Federal
13 Bureau of Investigation. For purposes of this Section, the commissioner may use the
14 NMLS&R as a channeling agent for requesting information from and distributing
15 information to the Department of Justice or any other governmental agency.

16 * * *

17 (9) Providing a process whereby a mortgage loan originator may challenge
18 information entered into the NMLS&R regarding that mortgage loan originator.

19 * * *

20 C. ~~The commissioner shall provide licensees with written notice sent to their~~
21 ~~address of record by United States mail of the date the licensing system will be~~
22 ~~available for use. Licensees shall enter all information required by the licensing~~
23 ~~system within one hundred twenty days after the date the licensing system is~~
24 ~~available for use.~~ After the date the licensing system is available for use, any filing
25 or notification required by the commissioner shall be made through the online
26 licensing system.

27 * * *

28 E. Before the end of each fiscal year, the commissioner shall submit the most
29 recent annual report of the NMLS&R's proprietor, the State Regulatory Registry

1 LLC or its successors, to the House Committee on Commerce, the Senate Committee
2 on Commerce, Consumer Protections, and International Affairs, and the division of
3 administration.

4 §1088.2. Application for licensure; application and renewal fees

5 A. The application shall be accompanied by the following nonrefundable
6 fees as determined by and payable to the commissioner:

7 (1) In the case of an application for a license to act as a mortgage lender, a
8 mortgage broker, or both, a license fee in an amount not to exceed four hundred
9 dollars.

10 (2) In the case of an application for a license to act as an originator, a license
11 fee in an amount not to exceed one hundred dollars.

12 (3) An annual license renewal fee for each person licensed as a mortgage
13 broker or mortgage lender in an amount not to exceed three hundred dollars.

14 (4) An annual license renewal fee for each originator in an amount not to
15 exceed one hundred dollars.

16 B. If the applicant has multiple office locations, all such locations may be
17 covered by a single license by including in the license application the address of each
18 office operated by the applicant and the name and license number of the individual
19 licensees engaging in residential mortgage lending activities at that location.

20 §1088.3. Application for renewal of license; restriction; late renewal fees

21 A.(1) Each person licensed as a mortgage broker or mortgage lender shall
22 submit an annual license renewal application on or before December thirty-first of
23 each year in a manner and form prescribed by the commissioner.

24 (2) Each mortgage loan originator who obtains a license and unique
25 identifier, who renewed a license and obtained a unique identifier to act as a
26 mortgage loan originator in 2009 pursuant to this Chapter, shall thereafter submit an
27 annual license renewal application on or before December thirty-first of each year
28 in a manner and form prescribed by the commissioner.

1 (3) An annual renewal application shall be accompanied by the required
2 annual license renewal fee pursuant to R.S. 6:1088.1. An annual license renewal
3 application submitted after December thirty-first and before March first of the
4 following year shall be charged an annual license renewal late fee of two hundred
5 dollars for residential mortgage lenders and brokers, and fifty dollars for mortgage
6 loan originators, in addition to the annual license renewal fee.

7 B.(1) An annual license renewal application which is timely submitted on
8 or before the December thirty-first license expiration date shall remain in force and
9 effect until such application is approved or rejected by the commissioner. Nothing
10 in this Section shall preclude the commissioner from implementing any
11 administrative or enforcement action authorized by this Title for violations of this
12 Chapter or for material misrepresentation which may have occurred prior to the
13 renewal date of a license.

14 (2) Licenses for which renewal applications are submitted to the NMLS&R
15 after December thirty-first shall be deemed to have expired effective January first,
16 unless the licensee after December thirty-first and before March first of the following
17 year, satisfies all of the following:

18 (a) Submits a request for a late filing of the annual license renewal
19 application.

20 (b) Pays the annual license renewal application fee and the annual license
21 renewal late fee provided for in Subsection A of this Section.

22 (c) Meets the requirements for license renewal provided for in Paragraphs
23 (C)(1) or (C)(2) of this Section, as applicable.

24 C.(1) The commissioner shall not renew a residential mortgage originator
25 license for which an application for license renewal is submitted for the year 2010,
26 and shall not renew any residential mortgage originator license for which an
27 application for license renewal is submitted for any year thereafter, unless the
28 commissioner finds at a minimum:

1 (a) The applicant for renewal of a residential mortgage loan originator
2 license continues to meet all requirements to obtain a license, including all
3 requirements of R.S. 6:1088.

4 (b) The applicant for renewal of a residential mortgage loan originator
5 license satisfies:

6 (i) The annual continuing education requirements of this Part.

7 (ii) The applicant is in compliance with all final or uncontested orders of, or
8 consent agreements with the commissioner including, but not limited to, the payment
9 of fees, penalties, or refunds.

10 (2) The commissioner shall not renew a residential mortgage broker or lender
11 license for which an application for license renewal is submitted for the year 2010,
12 and shall not renew any residential mortgage lender or broker license for which an
13 application for license renewal is submitted for any year thereafter, unless the
14 commissioner finds at a minimum:

15 (a) The applicant for renewal of a residential mortgage lender or broker
16 license continues to meet all requirements to obtain a license, including all
17 requirements of R.S. 6:1088.

18 (b) The applicant for renewal of a residential mortgage lender or broker
19 license is in compliance with all final or uncontested orders of, and or consent
20 agreements with the commissioner, including but not limited to, the payment of all
21 fees, penalties, or refunds.

22 D.(1) The license of a mortgage loan originator failing to satisfy the
23 minimum standards for annual license renewal in Paragraph (C)(1) of this Section
24 shall expire on December thirty-first.

25 (2) The license of a mortgage loan broker or lender failing to satisfy the
26 minimum standards for annual license renewal in Paragraph (C)(2) of this Section
27 shall expire on December thirty-first.

1 §1088.4. Information reporting

2 Notwithstanding any other provision of law to the contrary, except for R.S.
3 6:103(B) (16), R.S. 6:103(J), and R.S. 6:1088.1, the commissioner shall furnish to
4 the NMLS&R the following:

5 (1) Information as required by the P.L. 110-289, as amended, including but
6 not limited to, the employment history of and publicly adjudicated disciplinary and
7 enforcement actions and consumer complaints against mortgage loan originators.

8 (2) Information regarding publicly adjudicated disciplinary and enforcement
9 actions and consumer complaints against mortgage loan brokers or mortgage lenders
10 engaging in activities subject to this Chapter.

11 (3) Regularly report violations of this Chapter, as well as enforcement
12 actions, and other relevant information to the NMLS&R.

13 §1089. Name or location changes and closures; fees

14 A.(1) No residential mortgage lender or originator shall conduct the
15 residential mortgage lending activities provided for in this Chapter under any name
16 other than the one stated ~~on its license or annual registration statement~~ in its current
17 record of information in the licensing system.

18 (2) A residential mortgage lender shall notify the commissioner of a change
19 in the location or name of the business or the addition of offices ~~in writing by~~
20 submitting such information to the licensing system prior to the change. A notice of
21 change of location or name or addition of offices shall be accompanied by a filing
22 fee of one hundred dollars.

23 (3) A residential mortgage lender shall notify the commissioner of the
24 closing of any office ~~in writing by~~ submitting such information to the licensing
25 system and within thirty days of such closure.

26 B.(1) Whenever the employment of an originator changes, whether by the
27 originator's action or otherwise, the originator shall give ~~written~~
28 of employment to the commissioner by submitting such information to the licensing

1 system within thirty days of such change. The notice shall be accompanied by a
2 filing fee of fifty dollars.

3 (2) Whenever the employment of an originator employed by a mortgage
4 broker or mortgage lender changes, whether by the originator's change of
5 employment or otherwise, the employer, unless exempted from the provisions of this
6 Part, shall give ~~written~~ notice of the change in ~~identity~~ employment to the
7 commissioner by submitting such information to the licensing system within thirty
8 days of the change.

9 (3) Failure to notify the commissioner through the NMLS&R within the
10 prescribed time as required by this Section shall result in a one hundred dollar late
11 filing notification fee.

12 §1090. Restrictions

13 A. No license issued pursuant to this Chapter shall be sold or otherwise
14 transferred.

15 * * *

16 C. No person may act as an originator in a residential loan transaction unless
17 such person is employed by a licensed mortgage broker or mortgage lender, or by a
18 person exempt from the provisions of this Part, ~~or by a person exempt from licensure~~
19 ~~under the provisions of R.S. 6:1087(C).~~

20 D. A mortgage broker shall only broker a residential mortgage loan to a
21 mortgage lender licensed pursuant to this Chapter, or to a mortgage lender exempt
22 from the provisions of this Part, ~~or to a mortgage lender exempt from licensure under~~
23 ~~the provisions of this Chapter.~~

24 E. Any person licensed under this Chapter shall engage in residential
25 mortgage lending activities only through a natural person who is licensed as a
26 mortgage ~~broker, mortgage lender, or loan~~ originator, ~~or who is registered according~~
27 ~~to the provisions of this Chapter, or who is exempt from the provisions of this Part.~~

28 F. ~~Pursuant to regulations adopted by the commissioner, no~~ A licensed
29 residential mortgage lender or broker shall enter into a residential mortgage lending

1 transaction only with a person who is ~~not~~ in compliance with the licensing provisions
2 of this Chapter as a mortgage broker, mortgage lender, or mortgage loan originator.

3 * * *

4 H. No person who has been denied a license or had a license revoked and
5 ~~which person~~ has failed to request an administrative hearing pursuant to ~~R.S.~~
6 ~~6:1088(G)(2) or 1092(A)~~ R.S. 6:1092(A), or ~~whom a denial or~~ whose revocation was
7 affirmed in an administrative hearing, may be employed as a loan processor of
8 residential mortgage loans or hold a position which is responsible for the operation
9 of the principal place of business ~~of or~~ or a branch of any residential mortgage lender
10 licensed under this Chapter.

11 * * *

12 §1091. Recordkeeping and retention; examinations; investigation of complaints;
13 reports of conditions

14 A.(1) Each ~~residential mortgage lender~~ person required to be licensed under
15 this Chapter shall maintain in its offices such books, records, and accounts of its
16 residential mortgage lending activities as the commissioner may reasonably require
17 in order to determine whether such ~~residential mortgage lender~~ person is complying
18 with the provisions of this Chapter and the rules and regulations promulgated under
19 the provisions of this Chapter. Required records may be maintained in any electronic
20 format consistent with the ~~residential mortgage lender's~~ person's ordinary business
21 practices unless the ~~licensee~~ person receives specific written instructions from the
22 commissioner to the contrary. Such books, records, and accounts shall be
23 maintained separate and apart from any other business in which the ~~mortgage lender~~
24 ~~or mortgage broker~~ person is involved and shall be kept at the location in the state
25 at which the residential mortgage lending activity occurred or at the ~~residential~~
26 ~~mortgage lender's~~ person's principal office unless otherwise permitted in writing by
27 the commissioner. Records must be made available for review or examination at a
28 nonresidential location approved by the commissioner.

1 ~~B.(1)(a)~~ (2) The commissioner either in person or through an employee
2 appointed by him shall examine the books, records, and accounts of all licensed
3 residential mortgage lenders at least once every three years on an examination
4 schedule which focuses on appropriate risk management and concentrations of
5 consumer complaints and is consonant with the resources of the office and in
6 accordance with good examination practices. The commissioner shall include the
7 dates of each licensed residential mortgage lender's last two examinations beginning
8 with examinations conducted after January 1, 2008, which information shall be
9 updated quarterly, with the licensee's identifying information on the list of active
10 residential mortgage lenders maintained by the office of financial institutions and
11 accessible by the general public. The commissioner may also examine any formerly
12 licensed ~~residential mortgage lender~~ which person who is engaged in the collection
13 or enforcement of mortgage loans or brokerage agreements. Nothing in this
14 Subsection shall limit the authority of the commissioner to examine any licensed or
15 formerly licensed ~~residential mortgage lender~~ person as frequently as he deems
16 necessary to protect the public interest.

17 ~~(b)~~ (3) If the ~~residential mortgage lender's~~ books and records of any person
18 described in this Subsection are located outside of the state, he shall make them
19 available to the commissioner at a location within this state convenient to the
20 commissioner or pay the reasonable and necessary expenses for the commissioner
21 or his representative to examine them at the place where they are maintained. The
22 commissioner may designate representatives, including comparable officials of the
23 state in which the records are located, to inspect the records on his behalf.

24 ~~(2)~~ (4) The commissioner shall assess an examination fee in an amount not
25 to exceed four hundred dollars per location examined. If the examination fee is not
26 paid within thirty days of its assessment, the person examined shall be subject to an
27 administrative penalty of not more than fifty dollars for each day it is delinquent.

28 ~~C.(1) B.~~ If the commissioner receives a written complaint pertaining to the
29 residential mortgage activities of a person exempt from the provisions of this Part or

1 this Chapter, or exempt from licensure pursuant to the provisions of R.S. 6:1087, the
2 commissioner may refer the complaint to the exempted ~~entity~~ person for comment
3 or response. ~~If the complaint is not thereby resolved, the commissioner may refer~~
4 ~~such complaints~~ or to the appropriate federal or state regulatory, licensing,
5 supervisory, or auditing agency or body.

6 (2) ~~If the commissioner receives a written complaint pertaining to residential~~
7 ~~mortgage activities of any other exempt person not provided for in Paragraph (1) of~~
8 ~~this Subsection or if the federal or state regulatory, licensing, supervisory, or auditing~~
9 ~~agency or body to which the complaint has been referred fails to respond to the~~
10 ~~complaint within a reasonable period of time, the commissioner may require the~~
11 ~~residential mortgage lender to respond in writing to the complaint, may conduct such~~
12 ~~examinations as he deems necessary in response to such complaint, and may assess~~
13 ~~such persons an examination fee as provided in this Section.~~

14 C. In addition to any authority allowed under this Title, the commissioner
15 shall have the authority to conduct investigations and examinations as follows:

16 (1) For purposes of initial licensing, license renewal, license suspension,
17 license conditioning, license revocation or termination, or general or specific inquiry
18 or investigation to determine compliance with this Chapter, the commissioner shall
19 have the authority to access, receive, and use any books, accounts, records, files,
20 documents, information, or evidence, including but not limited to:

21 (a) Criminal, civil, and administrative history information.

22 (b) Personal history and experience information including independent credit
23 reports obtained from a consumer reporting agency described in the Fair Credit
24 Reporting Act, 15 U.S.C. 1681 et. seq.

25 (c) Any other documents, information, or evidence the commissioner deems
26 relevant to the inquiry or investigation regardless of the location, possession, control,
27 or custody of such documents, information, or evidence.

28 (2) For the purposes of investigating violations or complaints arising under
29 this Chapter, or for the purposes of examination, the commissioner may review,

1 investigate, or examine any licensee, individual, or person subject to this Chapter,
2 as often as necessary in order to carry out the purposes of this Chapter. The
3 commissioner may direct, subpoena, or order the attendance of and examine under
4 oath all persons whose testimony may be required about the loans or the business or
5 subject matter of any such examination or investigation, and may direct, subpoena,
6 or order such person to produce books, accounts, records, files, and any other
7 documents the commissioner deems relevant to the inquiry.

8 (3) Each person subject to this Chapter shall make available to the
9 commissioner upon request the books and records relating to the operations of such
10 licensee, individual, or person subject to this Chapter. The commissioner shall have
11 access to such books and records and interview the officers, principals, mortgage
12 loan originators, employees, independent contractors, agents, and customers of the
13 licensee, individual, or person subject to this Chapter concerning their business.

14 (4) Each person subject to this Chapter shall make or compile reports or
15 prepare other information as directed by the commissioner in order to carry out the
16 purposes of this Section, including but not limited to information lists and data
17 concerning loan transactions in a format prescribed by the commissioner.

18 (5) In making any examination or investigation authorized by this Chapter,
19 the commissioner may control access to any documents and records of the person
20 under examination or investigation. The commissioner may take possession of the
21 documents and records or place a person in exclusive charge of the documents and
22 records in the place where they are usually kept. During the period of control, no
23 person shall remove or attempt to remove any of the documents and records except
24 pursuant to a court order or with the consent of the commissioner. Unless the
25 commissioner has reasonable grounds to believe the documents or records of the
26 person have been, or are at risk of being altered or destroyed for purposes of
27 concealing a violation of this Chapter, the person who is the owner of the documents
28 and records shall have access to the documents or records as necessary to conduct
29 its ordinary business affairs.

1 (6) In order to carry out the purposes of this Section, the commissioner may:

2 (a) Retain attorneys, accountants, or other professionals and specialists as
3 examiners, auditors, or investigators to conduct or assist in the conduct of
4 examinations or investigations.

5 (b) Enter into agreements or relationships with other government officials
6 or regulatory associations by sharing resources, standardized or uniform methods or
7 procedures, and documents, records, information, or evidence obtained under this
8 Section.

9 (c) Use, hire, contract, or employ public or privately available analytical
10 systems, methods, or software to examine or investigate each person subject to this
11 Chapter.

12 (d) Accept and rely on examination or investigation reports made by other
13 government officials, within or outside this state.

14 (7) The authority of this Section shall remain in effect, whether such person
15 subject to this Chapter acts or claims to act under any licensing or registration law
16 of this state, or claims to act without such authority.

17 (8) No licensee, individual, or person subject to investigation or examination
18 under this Section shall knowingly withhold, abstract, remove, mutilate, destroy, or
19 secrete any books, records, computer records, or other information.

20 D. Each licensee shall submit to the NMLS&R reports of condition which
21 shall be in such form and contain such information as the NMLS&R may require.

22 §1092. Suspension and revocation of licensure; ~~revocation of exemption;~~
23 ~~disposition of funds;~~ commissioner's interpretations

24 A. After notice and an opportunity to be heard as provided in the
25 Administrative Procedure Act, the commissioner may suspend or revoke the license
26 of any ~~residential mortgage lender and, as applicable, of any originator person~~
27 licensed pursuant to this Chapter who:

1 (1) Violates any of the provisions of this Chapter or any rule or regulation
2 promulgated or any order, including, but not limited to, a cease and desist order or
3 subpoena, issued pursuant to this Chapter.

4 * * *

5 (5) Fails to maintain records as required by the commissioner after being
6 given written notice to the last address of record and thirty days within which to
7 correct the failure. The commissioner may grant, on good cause shown, up to two
8 thirty-day extensions within which to correct the recordkeeping violations.

9 (6) Continues in office any individual with power to direct the management
10 or policies of a person regulated by ~~the~~ this Chapter, including but not limited to any
11 officer, director, or manager, if such individual is convicted of, pleads guilty to, or
12 is found guilty after a plea of nolo contendere of any felony ~~under any state or~~
13 ~~federal law which involves moral turpitude or which involves any aspect of the~~
14 ~~business of making or brokering residential mortgage loans~~ and has been adjudicated
15 guilty in any state, federal, foreign, or military court.

16 * * *

17 B. ~~After notice and an opportunity to be heard in accordance with the~~
18 ~~Administrative Procedure Act, the commissioner may revoke the exemption from~~
19 ~~licensure of any person who:~~

20 (1) ~~Has knowingly filed an annual registration statement with the~~
21 ~~commissioner containing a false or fraudulent misrepresentation of a material fact,~~
22 ~~or has suppressed or withheld from the commissioner any information which if~~
23 ~~submitted by him would have resulted in denial of the exemption.~~ Notwithstanding
24 any other law to the contrary, and in addition to any other authority conferred upon
25 the commissioner by any other provision of law, the commissioner may upon
26 discovery order an immediate suspension of the license of any person licensed
27 pursuant to this Chapter who:

28 (a) Fails to maintain a surety bond in any manner as provided for by this
29 Chapter.

(b) Commits serious violations of this Chapter such that, in the opinion of the commissioner, the public safety and welfare demand that emergency action be taken.

(c) Submits a payment of any fee for any application, notification, examination, investigation, late fee, or penalty which is returned, declined, denied, or otherwise not paid in full for any reason.

(d) Is convicted of a felony that would have prohibited the issuance or renewal of the license.

(e) Has his license to act as a residential mortgage broker, residential mortgage lender, or residential mortgage loan originator suspended or revoked in this or another jurisdiction.

(2) ~~After examination of a written complaint filed with the commissioner,~~
~~is found to have knowingly engaged in any transaction, practice, or course of~~
~~business which perpetrates a fraud upon any person in connection with the making,~~
~~purchasing, sale, or brokering of any residential mortgage loan. A person whose~~
license is suspended under this Subsection shall have thirty days from the date of the
order to request a hearing in accordance with the Administrative Procedure Act.
Failure to timely request a hearing shall constitute a waiver of all hearing rights
regarding the suspension.

* * *

C. In addition to any other authority conferred upon the commissioner by this Chapter or this Title, the commissioner may issue cease and desist orders, order refunds of ~~the~~ any unauthorized portion of any fee, or charge a mortgage broker or originator any person collects in violation of this Chapter, and may impose a ~~fine or civil money~~ penalty not exceeding one thousand dollars upon any ~~residential mortgage lender~~ person who is found in an administrative proceeding to have violated any of the provisions of this Chapter or any rule or regulation promulgated in accordance with this Chapter. Each separate violation shall subject ~~the violator~~ such person to such ~~fine or civil money~~ penalty and each day ~~the violator~~ such

1 ~~person~~ acts as a residential mortgage lender without complying with the provisions
2 of this Chapter, or the rules or regulations promulgated in accordance with this
3 Chapter, shall constitute a separate violation.

4 * * *

5 E. The commissioner may report ~~egregious~~ violations to other state and
6 federal regulators of mortgage lending activities, the NMLS&R, federal law
7 enforcement agencies, the attorney general, or to the district attorney of the
8 appropriate parish, who may institute ~~the proper proceedings to enjoin the violation~~
9 ~~and enforce the penalties provided for in this Section~~ such proceedings as they deem
10 appropriate.

11 * * *

12 G. Any person who acts as a mortgage broker, mortgage lender, or mortgage
13 loan originator without complying with the licensing provisions of this Chapter shall
14 be subject to forfeiture of the compensation attributable to and received by the
15 mortgage broker, mortgage lender, or mortgage loan originator in connection with
16 residential mortgage lending activity occurring on or after August 15, 2001; provided
17 that the forfeiture of such compensation by the mortgage broker, mortgage lender,
18 or mortgage loan originator shall not impair the validity of the note and mortgage.

19 * * *

20 I. The commissioner may share information about any ~~particular entity~~
21 ~~which person who is chartered, licensed, or registered by the commissioner or~~
22 required to be licensed pursuant to this Chapter with any state or federal agency
23 having concurrent jurisdiction over such ~~entity person~~ with the Office of Financial
24 Institutions.

25 K. Any ~~person~~ residential mortgage lender or broker whose license under
26 this Chapter has been revoked for any reason may not reapply for a license until at
27 least five years have elapsed from the date of the order of revocation, unless the
28 commissioner, in his sole discretion, prescribes an earlier or later date. For purposes
29 of this Subsection, the order shall be considered to be the commissioner's notification

1 of revocation of the ~~person's license, and a person shall include the applicant, its~~
2 license. For the purposes of this Subsection, mortgage lender or mortgage broker
3 shall include the licensee, owners of ten percent or more, and its members if the
4 ~~applicant licensee~~ is a limited liability company, its partners if the applicant licensee
5 is a partnership, its officers and directors, if the applicant licensee is a corporation,
6 and any other person determined by the commissioner, in his sole discretion, to be
7 closely related to the person mortgage lender or broker.

8 * * *

9 §1092.2. Validity of judgment; execution

10 Any final and definitive decision of an administrative law judge or, in the
11 case such decision is appealed, a final judgment of an appellate court, issued in
12 connection with any hearing held pursuant to this Chapter and the Administrative
13 Procedure Act shall be considered a valid and final judgment that may be made
14 executory ~~by the commissioner~~ in accordance with the Code of Civil Procedure.

15 §1094. Professional education required for licensure; ~~examination~~; continuing
16 education

17 A. ~~Beginning July 1, 2000, the commissioner shall require all applicants for~~
18 ~~licensure to have completed ten hours of professional education prior to the date on~~
19 ~~which the application is submitted. The commissioner, in consultation with the~~
20 ~~board, shall establish guidelines, by rule, governing the required professional~~
21 ~~education.~~

22 (1) In order to meet the pre-licensing education requirements pursuant to
23 R.S. 6:1088, a person shall complete at least twenty hours of education approved in
24 accordance with this Section, which shall include all of the following minimum
25 requirements:

- 26 (a) Three hours of federal law and regulations.
27 (b) Three hours of ethics, which shall include instruction on fraud, consumer
28 protection, and fair lending issues.

1 (c) Two hours of training related to lending standards for the non-traditional
2 mortgage marketplace.

3 (2) For purposes of Paragraph (1) of this Subsection, pre-licensing education
4 courses shall be reviewed and approved by the NMLS&R, and shall include review
5 and approval of course providers; provided however, that until such time as the
6 commissioner determines that the pre-licensing education courses and course
7 providers referred to in this Paragraph are available to satisfy the requirements of
8 Paragraph (1) of this Subsection, the requirements may be met by the completion
9 prior to December 31, 2010, of any pre-licensing education courses or continuing
10 education courses approved by the commissioner in accordance with this Part prior
11 to that date. Such courses approved by the commissioner shall be eligible for
12 inclusion in the total number of hours of pre-licensing education any person is
13 required to complete in order to obtain, or to renew a mortgage loan originator
14 license for any license year beginning on, or prior, to January 1, 2011.

15 (3) Nothing in this Section shall preclude any pre-licensing education course,
16 as approved by the NMLS&R, that is provided by the employer of an applicant or
17 an entity which is affiliated with the employer by an agency contract, or by any
18 subsidiary or affiliate of such employer or entity.

19 (4) Pre-licensing education may be offered by any means approved by the
20 NMLS&R.

21 (5) Unless otherwise provided by a rule issued by the commissioner, a
22 person having successfully completed the pre-licensing education courses approved
23 by the NMLS&R for any other state shall be accepted as credit towards completion
24 of pre-licensing education course requirements in this state.

25 (6) The pre-licensing education requirements shall apply to all applications
26 for a mortgage loan originator license submitted after July 31, 2009, and to all
27 applications for renewal of a mortgage loan originator license submitted for the 2010
28 licensing year; provided however that, and notwithstanding any other law to the
29 contrary, any person licensed as a mortgage loan originator on July 30, 2009, shall

1 not be required to meet the minimum requirement of twenty hours of pre-licensing
2 education provided for in this Part, until such person timely submits an application
3 to renew a mortgage loan originator license for the year 2011.

4 ~~B.(1) Beginning August 15, 2005, each applicant for licensure shall pass a~~
5 ~~written examination administered by the commissioner or by a qualified designee of~~
6 ~~the commissioner. At least one examination shall be given each year, and additional~~
7 ~~examinations may be given if the volume of applicants makes additional~~
8 ~~examinations appropriate.~~

9 ~~(2) The required examination shall test the applicant's knowledge of state~~
10 ~~and federal laws and regulations governing residential mortgage lending, mortgage~~
11 ~~loan closing and servicing practices, types of residential mortgage loan products~~
12 ~~available to consumers, and such other matters as may be required by the~~
13 ~~Examination Review Committee of the Residential Mortgage Lending Board, which~~
14 ~~shall be comprised of the five members of the board plus three additional committee~~
15 ~~members selected by the commissioner. The committee shall have the sole authority~~
16 ~~to review and approve the content of the examinations; however, in the event of a tie~~
17 ~~vote in the committee, the commissioner's vote shall be dispositive.~~

18 ~~(3) The commissioner may impose and collect from the organization~~
19 ~~administering the examination a fee in an amount not to exceed fifty dollars for each~~
20 ~~examination graded by the commissioner or his designee.~~

21 ~~(4) The provisions of Paragraph (1) of this Subsection shall not apply to an~~
22 ~~applicant for licensure who:~~

23 ~~(a) Has received a bachelor's or master's degree in an area related to finance,~~
24 ~~banking, or business administration from an accredited college or university and has~~
25 ~~had within the three years immediately preceding the date of the application twelve~~
26 ~~months experience in the mortgage lending field as evidenced by documentary proof~~
27 ~~of full-time employment by a mortgage broker, mortgage lender, originator, or a~~
28 ~~person exempt from the provisions of this Part or this Chapter, performing the duties~~
29 ~~of one of the following:~~

1 ~~(i) Mortgage broker as defined in R.S. 6:1083(4).~~

2 ~~(ii) Mortgage lender as defined in R.S. 6:1083(5).~~

3 ~~(iii) Originator as defined in R.S. 6:1083(6).~~

4 ~~(iv) Mortgage loan processor, defined as a person who performs clerical~~
5 ~~duties in connection with residential mortgage loan transactions, including a~~
6 ~~minimum of four of the following activities performed at the direction of and subject~~
7 ~~to the supervision of the mortgage broker, mortgage lender, or person exempt from~~
8 ~~the provisions of this Part or this Chapter who is responsible for such direction and~~
9 ~~supervision:~~

10 ~~(aa) Collecting financial information and other related documents that are~~
11 ~~part of the application process.~~

12 ~~(bb) Ordering verifications of employment.~~

13 ~~(cc) Ordering verifications of deposits.~~

14 ~~(dd) Requesting mortgage payoffs.~~

15 ~~(ee) Requesting other loan verifications.~~

16 ~~(ff) Ordering appraisals.~~

17 ~~(gg) Ordering inspections.~~

18 ~~(hh) Ordering engineering reports.~~

19 ~~(v) Mortgage loan underwriter, defined as a person who performs evaluation~~
20 ~~duties in connection with residential mortgage loans by reverifying, evaluating for~~
21 ~~accuracy, and validating the credit documents or appraisals provided by an originator~~
22 ~~or a mortgage loan processor.~~

23 ~~(b) Has had within the three years immediately preceding the date of the~~
24 ~~application twenty-four months experience in the mortgage lending field as~~
25 ~~evidenced by documentary proof of full-time employment by a mortgage broker,~~
26 ~~mortgage lender, originator, or by a person exempt from the provisions of this Part~~
27 ~~or this Chapter, performing the duties of a:~~

28 ~~(i) Mortgage broker as defined in R.S. 6:1083(4).~~

29 ~~(ii) Mortgage lender as defined in R.S. 6:1083(5).~~

(iii) ~~Originator as defined in R.S. 6:1083(6).~~

(iv) ~~Mortgage loan processor, defined as a person who performs clerical duties in connection with residential mortgage loan transactions, including a minimum of four of the following activities performed at the direction of and subject to the supervision of the mortgage broker, mortgage lender, or person exempt from the provisions of this Part or this Chapter who is responsible for such direction and supervision:~~

(aa) ~~Collecting financial information and other related documents that are part of the application process.~~

(bb) ~~Ordering verifications of employment.~~

(cc) ~~Ordering verifications of deposits.~~

(dd) ~~Requesting mortgage payoffs.~~

(ee) ~~Requesting other loan verifications.~~

(ff) ~~Ordering appraisals.~~

(gg) ~~Ordering inspections.~~

(hh) ~~Ordering engineering reports.~~

(v) ~~Mortgage loan underwriter, defined as a person who performs evaluation duties in connection with residential mortgage loans by reverifying, evaluating for accuracy, and validating the credit documents or appraisals provided by an originator or a mortgage loan processor.~~ In order to meet the annual continuing education requirements pursuant to R.S. 6:1088.3, a licensed mortgage loan originator shall complete at least eight hours of continuing education approved in accordance with Paragraph (2) of this Subsection, which shall include all of the following minimum requirements:

(a) Three hours of federal laws and regulations.

(b) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues.

(c) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

1 (2) For purposes of Paragraph (1) of this Subsection, continuing education
2 courses shall be reviewed, and approved by the NMLS&R and shall include review
3 and approval of the course provider; provided however, until such time as the
4 commissioner determines that the continuing education courses and course providers
5 referred to in this Paragraph are available to satisfy the requirements of Paragraph
6 (1) of this Subsection, the requirements may be met by completion of any continuing
7 education courses approved by the commissioner in accordance with this Part. Such
8 courses approved by the commissioner shall be eligible for inclusion in the total
9 number of hours of continuing education any person is required to complete in order
10 to renew a mortgage loan originator license for any license year beginning on, prior
11 to, January 1, 2011.

12 (3) Nothing in this Section shall preclude any education course, as approved
13 by the NMLS&R, that is provided by the employer of the mortgage loan originator
14 or an entity which is affiliated with the mortgage loan originator by an agency
15 contract, or any subsidiary or affiliate of such employer or entity.

16 (4) Continuing education may be provided by any other means approved by
17 the NMLS&R.

18 (5) Except as provided in Paragraph (6) of this Subsection, a licensed
19 mortgage loan originator:

20 (a) May only receive credit for a continuing education course in the year in
21 which the course is taken.

22 (b) May not take the same approved course in the same or successive years
23 to meet the annual requirements for continuing education.

24 (c) May receive credit for being an instructor of an approved continuing
25 education course, at the rate of two hours of credit for every one hour of instruction,
26 towards the licensed mortgage loan originator's own annual continuing education
27 requirements for the next licensing year after providing such instruction.

28 (6) The provisions of Subparagraphs (5)(a) and (b) of this Subsection shall
29 not apply to:

1 (a) Courses approved by the commissioner for inclusion in the total number
2 of hours of pre-licensing education courses required to satisfy the pre-licensing
3 education requirements for any person required to meet the minimum pre-licensing
4 education requirements to obtain a mortgage originator license, or to obtain renewal
5 of a mortgage loan originator license for any license year beginning prior to January
6 1, 2011.

7 (b) Courses approved by the commissioner for inclusion in the total number
8 of hours of continuing education courses required to satisfy the continuing education
9 requirements for any person required to meet the minimum continuing education
10 requirements to obtain renewal of a mortgage loan originator license for any license
11 year beginning after the effective date of this Act and prior to January 1, 2011.

12 (7) A person having successfully completed the continuing education
13 requirements approved by the NMLS&R in this Subsection for any other state shall
14 be accepted as credit towards completion of the continuing education requirements
15 of this Chapter.

16 (8) A licensed mortgage loan originator who subsequently becomes
17 unlicensed must complete the continuing education requirements for the last year in
18 which the license was held prior to issuance of a new or renewed license.

19 §1094.1. Testing of loan originators

20 A. In order to meet the written test requirement pursuant to R.S. 6:1088, an
21 individual shall pass, in accordance with the standards established under this Section,
22 a qualified written test developed by the Nationwide Mortgage Licensing System and
23 Registry and administered by a test provider approved by the NMLS&R.

24 B. A written test shall not be treated as a qualified written test for purposes
25 of this Section unless the test adequately measures the applicant's knowledge and
26 comprehension in appropriate subject areas, including all of the following:

27 (1) Ethics.

28 (2) Federal law and regulations pertaining to mortgage origination.

29 (3) Louisiana law and regulations pertaining to mortgage origination.

(4) Federal and Louisiana law and regulations, including instruction on fraud, consumer protection, the non-traditional mortgage marketplace, and fair lending issues.

C. Nothing in this Section shall prohibit a test provider approved by the NMLS&R from providing a test at the location of the employer of the applicant or any subsidiary or affiliate of the employer of the applicant, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

D.(1) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent correct answers to questions.

(2) An individual may retake a test three consecutive times with each consecutive taking occurring at least thirty days after the preceding test.

(3) After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(4) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

* * *

§1096. Residential mortgage loans

* * *

I.(1) The person acting as originator in a residential loan transaction shall sign the original mortgage loan application and if applicable, shall include in the original mortgage loan application the unique identifier assigned to that person.

* * *

§1097. Residential mortgage loan fees and charges; applicability of the Louisiana
Consumer Credit Law

* * *

C. Consumer loans otherwise subject to the provisions of this Chapter may be made contractually subject to the Louisiana Consumer Credit Law, R.S. 9:3510 et. seq., by specifically stating that the loan is subject to the Louisiana Consumer Credit Law, R.S. 9:3510 et. seq.

* * *

§1098. Residential mortgage loan brokerage contracts

* * *

C. The written disclosures provided to the borrower shall also contain the following information as applicable:

(1) The name, address, ~~and~~ telephone number, and if applicable, the unique identifier of the originator.

(2) The name, address, ~~and telephone number, and if applicable, the unique~~
identifier of the residential mortgage lender by whom the originator is supervised
employed.

~~(3) The name, address, and telephone number of the residential mortgage lender by whom the originator is employed.~~

* * *

§1099. Criminal penalties

~~A. In addition to the authority to report egregious violations as provided in R.S. 6:1092(E), the The commissioner may report the violations of the following provisions to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for herein.~~

B. It shall be a misdemeanor for a mortgage broker or lender to knowingly collect advance fees in excess of those provided for in R.S. 6:1096(G), and upon conviction ~~he may be sentenced to pay~~ he shall be subject to a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

1 C. Any person who knowingly provides false or misleading information to
2 the commissioner on an application and such information is material to approval of
3 the application is shall be guilty of a misdemeanor and upon conviction ~~may be~~
4 ~~sentenced to pay~~ shall be subject to a fine not less than five hundred dollars and not
5 more than one thousand dollars, or to imprisonment not exceeding one year, or both.

6 D. Any licensee or exempt registrant who fails to account for or deliver to
7 any person any money, funds, deposits, checks, drafts, mortgages, or other
8 documents, or things of value to the borrower in violation of the provisions of this
9 Chapter is shall be guilty of a misdemeanor and upon conviction ~~may be sentenced~~
10 ~~to pay~~ shall be subject to a fine not less than five hundred dollars and not more than
11 one thousand dollars, or to imprisonment not exceeding one year, or both.

12 E. Any licensee who fails to disburse, without just cause, any funds
13 belonging to the borrower is shall be guilty of a misdemeanor and upon conviction
14 ~~may be sentenced to pay~~ shall be subject to a fine not less than five hundred dollars
15 and not more than one thousand dollars, or to imprisonment not exceeding one year,
16 or both.

17 F. A lender, broker, or originator who knowingly operates without a license
18 or ~~exempt registration is~~ while not exempt from the provisions of this Chapter shall
19 be guilty of a misdemeanor and upon conviction ~~may be sentenced to pay~~ shall be
20 subject to a fine not less than five hundred dollars and not more than one thousand
21 dollars, or to imprisonment not exceeding one year, or both.

22 Section 2. R.S. 9:3511(F) is hereby amended and reenacted and R.S. 9:3557(C) is
23 enacted to read as follows:

24 §3511. Scope

25 * * *

26 F. The ~~Residential Mortgage Lending Act~~ Louisiana S.A.F.E. Residential
27 Mortgage Lending Act, R.S. 6:1081, et seq., is the primary law governing residential
28 mortgage loans as defined in the ~~Residential Mortgage Lending Act~~ Louisiana
29 S.A.F.E. Residential Mortgage Lending Act. A residential mortgage lender, broker,

and a natural person who is a residential mortgage loan originator shall comply with the licensing provisions of the Louisiana S.A.F.E. Residential Mortgage Lending Act, R.S. 6:1081, et seq., unless otherwise exempt by the Act. Notwithstanding any other law to the contrary, parties to a consumer loan, as defined in this Part, which is secured by a mortgage encumbering one to four family residential immovable property, deed of trust, or other equivalent consensual security interest on a dwelling as defined in 15 U.S.C. 1602(v), or on residential immovable property upon which is constructed or intended to be constructed a dwelling, whether or not such a loan includes any additional security interest in movable property, may agree by contract that such a loan shall be governed by the Louisiana Consumer Credit Law, provided the lenders, brokers, and originators are properly licensed under this Part and the Louisiana S.A.F.E. Residential Mortgage Lending Act or otherwise exempt under R.S. 6:1081 et seq.

* * *

§3557. Authority to make consumer loans

* * *

C. Any person licensed under this Part shall not engage in the business of originating, lending, or brokering any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in 15 U.S.C. 1602(v) or on residential immovable property upon which is constructed or intended to be constructed a dwelling, unless such person has also obtained a license pursuant to the Louisiana S.A.F.E. Residential Mortgage Lending Act, R.S. 6:1081 et seq.

Section 3. R.S. 6:1083(1), 1092(A)(3), (4), (7), (8), (9), (10), (11), (12), (13), (15), and (17), 1093, and R.S. 9:3560(A)(10) are hereby repealed in their entirety.

Section 4. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are hereby declared severable.

1 Section 5. If, prior to October 1, 2010, the secretary of the United States Department
2 of Housing and Urban Development determines pursuant to P.L. 110-289, Section 1508, that
3 provisions in R.S. 6:1083(17) relating to an "employee" who is an agent of a depository
4 institution or its controlled and regulated subsidiary, causes Louisiana not to comply with
5 the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, then those offending
6 provisions of R.S. 6:1083(17) are held to be null and void and have no further effect.
7 Further, if, subsequent to October 1, 2010, the secretary of the United States Department of
8 Housing and Urban Development determines pursuant to P.L. 110-289, Section 1508, that
9 provisions in R.S. 6:1083(17) relating to an "employee" who is an agent of a depository
10 institution or its controlled and regulated subsidiary, causes Louisiana not to comply with
11 the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, then those offending
12 provisions of R.S. 6:1083(17), are held to be null and void and have no further effect. In the
13 event such provisions are held invalid by either the secretary of the United States
14 Department of Housing and Urban Development or another appropriate tribunal, then any
15 person acting according to this provision of invalidity shall be deemed in compliance with
16 the provisions of this Act and any transactions of any type covered in this Act are deemed
17 to be lawful and in full force and effect. The effect of any licensing requirement for any
18 impacted person as defined in this Act shall be one hundred twenty days after either the
19 secretary of the United States Department of Housing and Urban Development or an
20 appropriate tribunal make such determination of invalidity. If any provision of R.S.
21 6:1083(17) or the application thereof is held invalid, such invalidity shall not effect other
22 provisions or application of R.S. 6:1083(17) which can be given effect without the invalid
23 provisions or application and to this end the provisions of R.S. 6:1083(17) is hereby declared
24 severable.

25 Section 6. If the provisions of R.S. 6:1087(E)(9) are determined by the United States
26 Department of Housing and Urban Development to be noncompliant with the minimum
27 standards set forth in the Secure and Fair Enforcement for Mortgage Licensing Act, Title V
28 of the Housing and Economic Recovery Act, P.L. 110-289, then the provisions of R.S.
29 6:1087(E)(9) shall be considered null and void and have no further effect of law.

1 Section 7. This Act shall become effective on July 31, 2009.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Arnold

HB No. 810

Abstract: Provides for changes to the regulation of residential mortgage lending institutions.

Present law provides for definitions.

Proposed law changes the definitions in present law.

Proposed law provides for new definitions.

Present law prohibits any person, directly or indirectly, from engaging in residential mortgage lending activity in this state without complying with the provisions of present law or the rules or regulations promulgated pursuant to present law.

Proposed law provides that it shall be a violation of present law for a person or individual engaged in residential mortgage lending activity to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers, lenders, or any person.
- (2) Engage in any unfair or deceptive practice toward any person.
- (3) Obtain property by fraud or misrepresentation.
- (4) Solicit or enter into a contract with a borrower that provides that the person or individual may earn a fee or commission to obtain a loan even though no loan is actually obtained for the borrower.
- (5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting.
- (6) Conduct any business without holding a valid license, or assist or aid and abet any person in the conduct of business without a valid license.
- (7) As determined by the commissioner, structure a residential loan transaction in such a manner as to circumvent the provisions of proposed law.
- (8) Fail to comply with rules or regulations promulgated, or fail to comply with any other state or federal law, including the rules and regulations issued thereunder.
- (9) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising.
- (10) Negligently make any false statement, or knowingly and willfully make any omission of material fact, in connection with any information or reports filed with

a governmental agency or the NMLS&R, or in connection with any investigation conducted by the commissioner or another governmental agency.

- (11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.
- (12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by present law.
- (13) Engage in loan processing or underwriting activities as an independent contractor without obtaining a license to act as a residential mortgage loan originator.
- (14) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.
- (15) Has knowingly provided or caused to be provided to the commissioner any false or fraudulent misrepresentation of material fact, any false or fraudulent financial statement, or has suppressed or withheld from the commissioner any information which, if submitted by him, would have resulted in denial of the license application.
- (16) Refuses to permit an examination by the commissioner of his books and affairs, or has refused or failed within a reasonable time to furnish any information or make any report that may be required by the commissioner.
- (17) Violates any provision of a regulatory or prohibitory statute and has been found to have violated such statute by the governmental agency responsible for determining such violations.
- (18) Misrepresents material facts or makes false promises likely to influence, persuade, or induce an applicant into making a residential mortgage loan or a mortgagor into taking a mortgage loan, or pursues a course of misrepresentation through agents or otherwise.
- (19) Misrepresents or conceals material facts, terms, or conditions of a transaction to which he is a party, pertinent to an applicant for a mortgage loan, or a mortgagor.
- (20) Knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with the making, purchasing, sale, or brokering of any mortgage loan.
- (21) Fails to account for or deliver to any person any personal property obtained in connection with a residential mortgage loan, including but not limited to money, funds, deposits, checks, drafts, mortgages, or other documents or things of value, which has come into his hands and which is not his property, or which he is not entitled by law to retain.
- (22) Fails to disburse, without just cause, any funds in accordance with any agreement connected with a residential mortgage loan.
- (23) Fails to pay any fee or assessment imposed under present law.
- (24) Represent to the public through advertising or other means of communicating or providing information including the use of business cards, stationary brochures, signs, rate lists, or other promotional items, that such an individual can or will

perform any activities of a mortgage loan originator, while such individual engages in activities solely as a loan processor or underwriter as defined in this Chapter.

Proposed law provides that the violations listed in proposed law are nonexclusive, and are in addition to and exist independent of, any other violations set forth in other provisions of present law. Failure to comply with any provision set forth herein may serve as a basis for any enforcement or other action accorded the commissioner.

Present law provides that no person shall engage in any residential mortgage lending activity in this state unless such person has first obtained a license.

Proposed law retains present law but provides that the person maintain annually a license and a unique identifier.

Proposed law provides that the provisions of proposed law shall not apply to a person whose residential mortgage lending activities were not subject to the licensing requirements on July 30, 2009, or a person engaged in residential mortgage lending activities that was exempt from licensure on July 30, 2009.

Present law provides that any person authorized to engage in business as a credit union under the laws of the U.S., any state or territory of the U.S., or the District of Columbia, and any subsidiary of such person, and the employees of such person, shall be exempt from licensing.

Present law provides that the following employers and their employees shall be exempt from licensing:

- (1) Any person authorized to engage in business as a bank, savings bank, or savings and loan association under the laws of the U.S., any state or territory of the U.S., or the District of Columbia, and any direct or indirect subsidiaries of such entities, who are subject to general supervision and regulation, or audit or examination, by a regulatory body or agency of the U.S., any state or territory of the U.S., or the District of Columbia, and the employees of such persons, including those acting as originators and their exclusive agents under written agreement.
- (2) Any attorney licensed to practice law when such attorney is not actively engaged in the business of making or brokering residential mortgage loans and the residential mortgage lending activity is incidental to providing legal services.
- (3) Any nonprofit corporation exempt from federal taxation under Section 501(c) of the Internal Revenue Code making residential mortgage loans to promote home ownership or home improvements for the disadvantaged.
- (4) Any agency of the federal government, or a state or municipal government, or any quasi governmental agency making residential mortgage loans under the specific authority of the laws of any state or the U.S.
- (5) Any person acting as a fiduciary with respect to any employee pension benefit plan qualified under the Internal Revenue Code who makes residential mortgage loans solely to plan participants from plan assets.
- (6) Any real estate investment trust.
- (7) Any person acting in a fiduciary capacity conferred by the authority of any court.
- (8) Any person licensed as a small business investment company by the U.S. S.B.A.
- (9) Any mortgagee in a residential loan transaction in which the mortgagee is the former owner of the residential immovable property.

- (10) Any insurance company authorized by the insurance commissioner of this state or any other state and any resident or nonresident insurance agent who holds an unexpired agent license who brokers loans exclusively to an insurer.
- (11) Any person authorized to engage in business as a licensed lender under the provisions of the La. Consumer Credit Law, R.S. 9:3510 et seq., whose gross revenue from loans subject to the La. Consumer Credit Law exceeds 50% of the licensee's gross revenue; however, such persons shall remain subject to the examination and enforcement provisions of R.S. 6:1091 and 1092 for those loans subject to R.S. 6:1081 et seq.

Present law provides that employees and the exclusive agents under written agreement of any person licensed is a direct or indirect subsidiary of a financial or bank holding company, savings bank holding company, or thrift holding company, shall be exempt from the licensure and continuing education requirements.

Present law provides that any person exempt from licensure under present law shall engage in residential mortgage lending activities only through natural persons who are licensed as a mortgage broker, mortgage lender, or originator, or who are registered or exempted.

Proposed law provides that persons engaged in residential mortgage transactions subject to an exemption provided for in present law on or before July 30, 2009, may continue to be so engaged until July 30, 2010. Thereafter, the exemptions provided in present law shall expire and no longer have any effect. Effective July 31, 2010, no person previously exempt pursuant to present law shall engage in residential mortgage lending activity without a license and a unique identifier, unless such person is exempt on or after July 31, 2009.

Proposed law provides that the following shall be exempt from the licensing provisions applicable to persons engaged in residential mortgage lending activities as a residential mortgage loan originator:

- (1) Registered mortgage loan originators, when acting for an entity described in present law.
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.
- (3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that is owned by and serves as the individual's residence.
- (4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator, or by any agent of such lender, mortgage broker, or other mortgage loan originator.
- (5) Any individual who performs only real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator, or by any agent of such lender, mortgage broker, or other mortgage loan originator.
- (6) Any individual solely involved in extensions of credit relating to timeshare plans.
- (7) An individual engaging solely in loan processor or underwriter activities, who does not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator. "Loan processor or underwriter"

means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing. "Clerical or support duties" may include subsequent to the receipt of an application:

- (a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan.
 - (b) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms; provided however that an independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless such independent contractor obtains and maintains a license. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the NMLS&R.
- (8) Individuals who are employees of a retailer of manufactured or modular homes as defined in R.S. 51:911.21 et seq., if the employees are performing only administrative or clerical tasks in connection with the sale or lease of a manufactured or modular home and provided such individuals receive no compensation or other gain from a residential mortgage lender or a residential mortgage broker for the performance of the administrative or clerical tasks.
- (9) The commissioner may exempt mortgage servicer loss mitigation specialists if he determines that an exemption of a mortgage servicer loss mitigation specialist is compliant with the minimum standards of the federal S.A.F.E. Act.

Proposed law provides that the following employers and their employees shall be exempt from the residential mortgage lender and mortgage broker licensing provisions of proposed law:

- (1) Any attorney licensed to practice law when such attorney is not actively engaged in the business of making or brokering residential mortgage loans and the residential mortgage lending activity is incidental to providing legal services.
- (2) Any nonprofit corporation exempt from federal taxation under Section 501(c) of the Internal Revenue Code making residential mortgage loans to promote home ownership or home improvements for the disadvantaged.
- (3) Any agency of the federal government, or a state or municipal government, or any quasi governmental agency making residential mortgage loans under the specific authority of the laws of any state or the U.S.
- (4) Any person acting as a fiduciary with respect to any employee pension benefit plan qualified under the Internal Revenue Code who makes residential mortgage loans solely to plan participants from plan assets.
- (5) Any real estate investment trust.
- (6) Any person acting in a fiduciary capacity conferred by the authority of any court.
- (7) Any person licensed as a small business investment company by the U.S. S.B.A.

- (8) Any insurance company authorized by the insurance commissioner of this state or any other state and any resident or nonresident insurance producer who holds an unexpired producer license who brokers loans exclusively to an insurer.
- (9) Any depository institution or direct or indirect subsidiary thereof regulated by a federal banking agency.
- (10) Any mortgagee in a residential loan transaction in which the mortgagee is the owner of the dwelling or residential immovable property.

Proposed law provides that any person exempt from licensure shall engage in residential mortgage lending activities only through natural persons who are licensed as a mortgage broker, mortgage lender, or mortgage loan originator, or who are exempt.

Present law requires an application for a license to be made in writing, under oath, and on a form prescribed by the commissioner where each license shall expire on December 31st of the year in which it was issued.

Proposed law retains present law but allows for the commissioner to grant restricted or conditional licenses.

Proposed law provides that the commissioner shall require mortgage loan originators, mortgage lenders, and mortgage brokers to be licensed and registered through the NMLS&R and for this purpose the commissioner may establish such application information requirements and any other information as he deems necessary to participate in the NMLS&R. For the purposes of participating in the NMLS&R, the commissioner may waive or modify in whole or in part by rule or order, any requirements and set forth such new requirements as he deems reasonably necessary to participate in the NMLS&R. The commissioner may direct that certain information, documents, or other items required be furnished to the commissioner or to the NMLS&R, and may be furnished periodically and separately from an application.

Present law provides that each applicant for licensing as a mortgage lender or a mortgage broker, or both, shall, at the time of application for licensure or any renewal of a license, provide evidence of financial responsibility and solvency in one of the following forms:

- (1) An audited financial statement prepared by a certified public accountant that meets the independent requirements of the profession. The applicant shall maintain a net worth of \$50,000 or more during the licensing year. The date of the audit must be no more than 18 months prior to the application or renewal date. The licensee must submit the annual audit to the commissioner within sixty days of receipt of such audit. Failure to submit the audited financial statements or furnish other acceptable evidence of financial responsibility may result in a late filing fee not to exceed \$1,000 and may result in suspension or revocation of licenses.
- (2) A deposit, irrevocably pledged to the commissioner, of \$50,000 in a federally insured depository institution located in La., designated by the applicant, and approved by the commissioner. The applicant shall receive all interest earned on the deposit.
- (3) Securities of a type approved by the commissioner, including but not limited to bonds of the state or any of its political subdivisions or bonds of the U.S. government, having a value of not less than \$50,000 irrevocably pledged to the commissioner. The applicant shall receive all interest or dividends earned on the securities.

- (4) A surety bond authorized by a surety insurer licensed to do business in this state in the amount of fifty thousand dollars. The surety bond shall name the office of financial institutions and shall be filed with the application or renewal.

Proposed law repeals present law.

Present law provides that an applicant who is a natural person and is employed by a juridical person engaging in residential mortgage lending activities as a mortgage broker or mortgage lender may demonstrate his financial responsibility and solvency by submitting evidence that his employer satisfies the requirements established in this Subsection.

Proposed law repeals present law.

Proposed law provides that an applicant for licensure shall, in connection with an application for licensing, furnish to the commissioner, or if application procedures permit, to the NMLS&R, each of the following:

- (1) Fingerprints for submission to the F.B.I., and any governmental agency or entity authorized to receive such information for a state, national, or international criminal history background check; provided however, that any person licensed on July 30, 2009, may satisfy this requirement by complying with the provisions of present law, until the earlier of being directed otherwise by the commissioner, or until December 31, 2010. The commission may use the NMLS&R as a channeling agent for requesting and distributing information to and from any source as directed by the commissioner.
- (2) Personal history and experience in a form prescribed by the NMLS&R, and when available through the NMLS&R.
- (3) Authorization for the NMLS&R and the commissioner to obtain:
 - (a) An independent credit report obtained from a consumer reporting agency.
 - (b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; provided however, that persons licensed on July 30, 2009 need not furnish such authorization until the earlier of being directed to do so by the commissioner, or December 31, 2010.

Present law provides that if the applicant has multiple office locations, all such locations may be covered by a single license by including in the license application the address of each office operated by the applicant and the name and license number of the individual licensees engaging in residential mortgage lending activities at that location.

Proposed law retains present law.

Proposed law provides that the commissioner may not issue a mortgage loan originator license, unless the commissioner finds that the applicant has the following minimum requirements:

- (1) Paid all fees due to the office of financial institutions.
- (2) Never had a mortgage loan originator license, mortgage lender license, or mortgage broker license revoked in any governmental jurisdiction unless such revocation is subsequently formally vacated.
- (3) Has not been convicted of, pleaded guilty or nolo contendere to and has been adjudicated guilty of a felony in a domestic, foreign, or military court during the seven year period preceding the date of application for licensing and registration or

at any time preceding such date of application if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; provided however that any conviction for which an individual has received a pardon, the effect of which, according to the law of the jurisdiction granting the pardon, is to void the fact of the conviction, shall not be deemed a conviction.

- (4) Demonstrates financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator, mortgage lender, or mortgage broker will operate honestly, fairly, and efficiently.
- (5) Has completed the pre-licensing education requirements.
- (6) Has passed a written test that meets the certain test requirements.
- (7) Has obtained and maintains a surety bond.

Present law provides for applications and fees for licensure and renewal fees as follows:

- (1) In the case of an application for a license to act as a mortgage lender, a mortgage broker, or both, a license fee in an amount not to exceed \$400.
- (2) In the case of an application for a license to act as an originator, a license fee in an amount not to exceed \$100.
- (3) An annual license renewal fee for each person licensed as a mortgage broker or mortgage lender in an amount not to exceed \$300.
- (4) An annual license renewal fee for each originator in an amount not to exceed \$100.

Present law provides that the commissioner shall have the authority to take all action regarding the licensing system including but not limited to authorizing the licensing system to collect fingerprints on the commissioner's behalf in order to receive criminal history records from the F.B.I.

Proposed law retains present law but the commissioner may also use the NMLS&R as a channeling agent for requesting information from and distributing information to the D.O.J. or any other governmental agency.

Proposed law provides that the commissioner has the authority to take action regarding the licensing system including the following:

- (1) Providing a process whereby a mortgage loan originator may challenge information entered into the NMLS&R by the commissioner regarding that mortgage loan originator.
- (2) Adopting by rule requirements that mortgage lenders, brokers, and originators comply with other applicable federal statutes and regulations in any advertising of residential mortgage loans or any other mortgage lender, broker, or loan originator activity.

Present law provides for annual renewal application and fees.

Proposed law changes present law to provide that each person licensed as a mortgage broker or mortgage lender shall file an annual license renewal application on or before December 31st of each year in a manner and form prescribed by the commissioner.

Proposed law provides that each mortgage loan originator who obtains a license and unique identifier, who renewed a license and obtained a unique identifier to act as a mortgage loan originator in 2009, shall thereafter submit an annual license renewal application on or before December 31st of each year in a manner and form prescribed by the commissioner.

Proposed law provides that an annual renewal application shall be accompanied by the required annual license renewal fee. An annual license renewal application submitted after December 31st and before March 1st of the following year shall be charged an annual license renewal late fee of \$200 for residential mortgage lenders and brokers, and \$50 for mortgage loan originators, in addition to the annual license renewal fee.

Proposed law provides that an annual license renewal application which is timely submitted on or before the December 31st license expiration date shall remain in force and effect until such application is approved or rejected by the commissioner. The commissioner can implement any administrative or enforcement action violations or for material misrepresentation which may have occurred prior to the renewal date of a license.

Proposed law provides that licenses for which renewal applications are submitted to the NMLS&R after December 31st shall be deemed to have expired effective January 1st, unless the licensee after December 31st and before March 1st of the following year, satisfies all of the following:

- (1) Submits a request for a late filing of the annual license renewal application.
- (2) Pays the annual license renewal application fee and the annual license renewal late fee.

Proposed law provides that the commissioner shall not renew a residential mortgage originator license for which an application for license renewal is submitted for the year 2010, and shall not renew any residential mortgage originator license for which an application for license renewal is submitted for any year thereafter, unless the commissioner finds at a minimum:

- (1) The applicant for renewal of a residential mortgage loan originator license continues to meet all requirements to obtain a license, including all requirements of R.S. 6:1088.
- (2) The applicant for renewal of a residential mortgage loan originator license satisfies the annual continuing education requirements and is in compliance with all final or uncontested orders of, or consent agreements with the commissioner including, but not limited to, the payment of fees, penalties, or refunds.

Proposed law provides that the commissioner shall not renew a residential mortgage broker or lender license for which an application for license renewal is submitted for the year 2010, and shall not renew any residential mortgage lender or broker license for which an application for license renewal is submitted for any year thereafter, unless the commissioner finds at a minimum:

- (1) The applicant for renewal of a residential mortgage lender or broker license continues to meet all requirements to obtain a license.
- (2) The applicant for renewal of a residential mortgage lender or broker license is in compliance with all final or uncontested orders of, and or consent agreements with the commissioner, including but not limited to, the payment of all fees, penalties, or refunds.

Proposed law provides that the license of a mortgage loan originator failing to satisfy the minimum standards for annual license renewal in proposed law shall expire on December

31st and the license of a mortgage loan broker or lender failing to satisfy the minimum standards for annual license renewal in proposed law shall expire on December 31st.

Present law provides that each applicant shall have a surety bond in the amount of \$50,000. The applicant shall furnish a surety bond authorized by a surety insurer licensed to do business in this state. The surety bond shall name the office of financial institutions.

Proposed law changes present law to provide that each applicant for any license shall, at the time of application for licensure or any renewal of a license, provide evidence of obtaining and maintaining a surety bond. The required amount of the surety bond shall be determined by information in a report submitted by an applicant or licensee as prescribed by the commissioner. The total dollar amount of the original outstanding principal balance of all residential mortgage loans originated by the applicant secured by immovable property located in this state, including all such loans originated by mortgage loan originators employed by the applicant during the previous calendar year and reported pursuant to this Subsection shall be used to determine the amount of the bond required as follows. The required amount of the bond shall be determined by information in a report of total loan volume submitted by the applicant as prescribed by the commissioner. Total loan volume of the applicant shall be calculated by adding all of the following:

- (1) The total dollar volume of loans which were originated by an applicant or licensee and funded by a mortgage lender.
- (2) Total dollar volume of loans originated and funded by same applicant or licensee.
- (3) The total dollar volume of loans funded by an applicant which were originated by a mortgage broker.

The total dollar loan volume reported for the previous year shall be used to determine the amount of the surety bond required in accordance with the following:

Dollar Amount of Total Loan Volume in Previous Calendar Years	Required Amount of Surety Bond
Lenders, Brokers, and Originators	
\$0 - \$99,999,999	\$25,000
\$100,000,000 or greater	\$50,000

Proposed law provides that in lieu of obtaining a surety bond, all applicants may meet the requirements of proposed law by depositing in a federally insured depository institution located in La., designated by the applicant and approved by the commissioner, an amount equal to the amount of the surety bond otherwise required by the provisions of proposed law, provided that the title of any such deposit account must include the words "for the benefit of" or "f/b/o the Louisiana Office of Financial Institutions", and require such other evidence of and information regarding such account as he may deem appropriate, provided that interest earned on such account shall be payable to the person or entity making the deposit.

Proposed law provides that an applicant for a mortgage originator license who is employed by, or is an exclusive agent for, a juridical person engaging in residential mortgage lending activities as a licensed mortgage broker or mortgage lender may satisfy the requirement of furnishing a surety bond by submitting evidence in a form and manner satisfactory to the commissioner that his employer or principle has obtained a surety bond which satisfies the requirements of proposed law.

Proposed law provides that a mortgage originator whose license remains in a status of inactive or any other status which would not allow them to originate mortgage loans shall

not be required to maintain the surety bond as required by proposed law until such time as their license is returned to a status which allows them to originate mortgage loans.

Proposed law requires the commissioner to furnish to the NMLS&R the following:

- (1) Information as required by the S.A.F.E. Act, as amended, including but not limited to, the employment history of and publicly adjudicated disciplinary and enforcement actions and consumer complaints against mortgage loan originators.
- (2) Information regarding publicly adjudicated disciplinary and enforcement actions and consumer complaints against mortgage loan brokers or mortgage lenders.
- (3) Regularly report violations as well as enforcement actions, and other relevant information to the NMLS&R.

Present law prohibits any residential mortgage lender or originator from conducting residential mortgage lending activities under any name other than the one stated on its license or annual registration statement.

Proposed law retains present law but provides the name be on the current record of information in the licensing system.

Present law requires a residential mortgage lender to notify the commissioner of a change in the location or name of the business or the addition of offices in writing prior to the change.

Proposed law changes present law from notification in writing to submitting information to the licensing system.

Present law requires a residential mortgage lender to notify the commissioner of the closing of any office in writing and within 30 days of such closure.

Proposed law changes present law from notification in writing to submitting information to the licensing system.

Present law requires an originator to give written notice of change in employment to the commissioner within 30 days of the change.

Proposed law changes present law from notification in writing to submitting information to the licensing system.

Present law provides that whenever the employment of an originator employed by a mortgage broker or mortgage lender changes, the employer shall give written notice of the change to the commissioner within 30 days of the change.

Proposed law changes present law to provide that notification shall be by submitting such information to the licensing system.

Present law provides that failure to notify the commissioner within the prescribed time period as required by present law shall result in a \$100 filing fee.

Proposed law retains present law but provides that notification be made through the NMLS&R.

Present law provides that any licensed person shall engage in residential mortgage lending activities only through a natural person who is licensed as a mortgage broker, mortgage lender, or loan originator, or who is registered according to present law, or who is exempt.

Proposed law changes present law to provide that the activities shall only be through a person who is licensed as a mortgage loan originator or a person who is exempt.

Present law provides that each residential mortgage lender required to be licensed shall maintain in its offices such books, records, and accounts of its residential mortgage lending activities.

Proposed law changes present law to require all persons required to be licensed to maintain records.

Present law provides that if the commissioner receives a written complaint pertaining to residential mortgage activities or if the federal or state regulatory, licensing, supervisory, or auditing agency or body to which the complaint has been referred fails to respond to the complaint within a reasonable period of time, the commissioner may require the residential mortgage lender to respond in writing to the complaint, may conduct such examinations as he deems necessary in response to such complaint, and may assess such persons an examination fee.

Proposed law repeals present law.

Proposed law provides that the commissioner shall have the authority to conduct investigations and examinations as follows:

- (1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation, the commissioner shall have the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including but not limited to:
 - (a) Criminal, civil, and administrative history information.
 - (b) Personal history and experience information including independent credit reports obtained from a consumer reporting agency.
 - (c) Any other documents, information, or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control, or custody of such documents, information, or evidence.
- (2) For the purposes of investigating violations or complaints, or for the purposes of examination, the commissioner may review, investigate, or examine any licensee, individual, or person as often as necessary in order to carry out the purposes of present law. The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents the commissioner deems relevant to the inquiry.
- (3) Each person shall make available to the commissioner upon request the books and records relating to the operations of such licensee, individual, or person. The commissioner shall have access to such books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person concerning their business.
- (4) Each person shall make or compile reports or prepare other information as directed by the commissioner in order to carry out present law, including but not limited to information lists and data concerning loan transactions in a format prescribed by the commissioner.

- (5) In making any examination or investigation, the commissioner may control access to any documents and records of the person under examination or investigation.
- (6) In order to carry out present law, the commissioner may:
- (a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations.
 - (b) Enter into agreements or relationships with other government officials or regulatory associations by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence.
 - (c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate each person.
 - (d) Accept and rely on examination or investigation reports made by other government officials, within or outside this state.
- (7) The authority shall remain in effect, whether such person acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.
- (8) No licensee, individual, or person subject to investigation or examination shall knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Proposed law provides that each licensee shall submit to the NMLS&R reports of condition which shall be in such form and contain such information as the NMLS&R may require.

Present law provides that after notice and an opportunity to be heard, the commissioner may suspend or revoke the license of any residential mortgage lender and, as applicable, of any originator.

Proposed law changes present law to provide that any licensed person is subject to suspension or revocation.

Present law allows the commissioner to order an immediate suspension of the license of a residential mortgage lender or originator in certain instances.

Proposed law changes present law to allow for the immediate suspension of any licensed person including a person:

- (1) Convicted of a felony that would have prohibited the issuance or renewal of the license.
- (2) Having his license to act as a residential mortgage broker, residential mortgage lender, or residential mortgage loan originator suspended or revoked in this or another jurisdiction.

Present law gives the commissioner authority to report egregious violations to the attorney general or the district attorney of the appropriate parish.

Proposed law retains present law but allows the commissioner to report any violation and also includes reporting the violation to other state and federal regulators, the NMLS&R, and federal law enforcement agencies.

Present law provides that any person who acts as a mortgage broker or originator without complying with the licensing provisions of present law shall be subject to forfeiture of the

compensation attributable to and received by the mortgage broker or originator in connection with residential mortgage lending activity occurring on or after August 15, 2001; provided that the forfeiture of such compensation by the mortgage broker or originator shall not impair the validity of the note and mortgage.

Proposed law retains present law but includes residential mortgage lenders.

Present law provides that any person whose license has been revoked for any reason may not reapply for a license until at least five years have elapsed from the date of the order of revocation, unless the commissioner, in his sole discretion, prescribes an earlier or later date.

Proposed law changes present law to provide for only those persons licensed as residential mortgage lenders or brokers are subject to present law.

Present law provides that the commissioner shall require all applicants for licensure to have completed 10 hours of professional education prior to the date on which the application is submitted. The commissioner, in consultation with the board, shall establish guidelines, by rule, governing the required professional education.

Proposed law changes present law to require a person to complete at least 20 hours of education which shall include three hours of federal law and regulations, three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues, and two hours of training related to lending standards for the nontraditional mortgage marketplace.

Proposed law provides that pre-licensing education courses shall be reviewed and approved by the NMLS&R, and shall include review and approval of course providers; provided however, that until such time as the commissioner determines that the pre-licensing education courses and course providers are available to satisfy the requirements of proposed law, the requirements may be met by the completion prior to December 31, 2010 of any pre-licensing education courses or continuing education courses approved by the commissioner prior to that date. Such courses approved by the commissioner shall be eligible for inclusion in the total number of hours of pre-licensing education any person is required, to complete in order to obtain, or to renew a mortgage loan originator license for any license year beginning on, or prior to, January 1, 2011.

Proposed law provides for any pre-licensing education course, as approved by the NMLS&R, that is provided by the employer of an applicant or an entity which is affiliated with the employer by an agency contract, or by any subsidiary or affiliate of such employer or entity.

Proposed law provides that pre-licensing education may be offered by any means approved by the NMLS&R.

Proposed law provides that a person having successfully completed the pre-licensing education courses approved by the NMLS&R for any other state shall be accepted as credit towards completion of pre-licensing education course requirements in this state.

Proposed law provides that pre-licensing education requirements shall apply to all applications for a mortgage loan originator license submitted after the effective date of this Act, and to all applications for renewal of a mortgage loan originator license submitted for the 2010 licensing year; provided however that, and notwithstanding any other law to the contrary, any person licensed as a mortgage loan originator on July 30, 2009, shall not be required to meet the minimum requirement of 20 hours of pre-licensing education, until such person timely submits an application to renew a mortgage loan originator license for the year 2011.

Proposed law provides that a licensed mortgage loan originator shall complete at least 8 hours of continuing education which shall include 3 hours of federal laws and regulations, 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues, and 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

Present law provides for the testing of each applicant for licensure where there are certain exemptions on testing.

Proposed law changes present law to provide an individual shall pass a qualified written test developed by the NMLS&R and administered by a test provider approved by the NMLS&R.

Proposed law provides that a written test shall not be treated as a qualified written test for unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including all of the following:

- (1) Ethics.
- (2) Federal law and regulations pertaining to mortgage origination.
- (3) Louisiana law and regulations pertaining to mortgage origination.
- (4) Federal and Louisiana law and regulations, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

Proposed law allows for a test provider approved by the NMLS&R to provide a test at the location of the employer of the applicant or any subsidiary or affiliate of the employer of the applicant, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

Proposed law provides that an individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75% correct answers to questions.

Proposed law provides that an individual may retake a test three consecutive times with each consecutive taking occurring at least 30 days after the preceding test where after failing 3 consecutive tests, an individual shall wait at least six months before taking the test again.

Proposed law provides that a licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

Present law requires the person acting as originator in a residential loan transaction to sign the original application.

Proposed law retains present law but provides that the originator include a unique identifier if applicable.

Proposed law provides that consumer loans otherwise subject to the provisions of proposed law may be made contractually subject to the La. Consumer Credit Law by specifically stating that the loan is subject to the La. Consumer Credit Law.

Present law requires that written disclosures to the borrower contain the name, address, and telephone number of the originator and the residential mortgage lender by whom the originator is supervised or employed.

Proposed law retains present law but provides for inclusion of a unique identifier if applicable and only the employer's information needs to be included in the disclosures.

Present law provides that the Residential Mortgage Lending Act is the primary law governing residential mortgage loans.

Proposed law retains present law but also provides that a residential mortgage lender, broker, and a natural person who is a residential mortgage loan originator shall comply with the licensing provisions of the La. S.A.F.E. Residential Mortgage Lending Act.

Present law provides that if a loan includes any additional security interest in movable property, the loan agreement can be made by contract that such a loan shall be governed by the La. Consumer Credit Law.

Proposed law retains present law but provides the lenders, brokers, and originators of the loans in present law are properly licensed under the La. Consumer Credit Law and the La. S.A.F.E. Residential Mortgage Lending Act.

Proposed law provides that any person licensed under La. Consumer Credit Law shall not engage in the business of originating, lending, or brokering any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential immovable property upon which is constructed or intended to be constructed a dwelling, unless such person has also obtained a license pursuant to the La. S.A.F.E. Residential Mortgage Lending Act.

Present law provides that a person who is licensed pursuant to the La. S.A.F.E. Residential Mortgage Lending Act shall be exempt from the consumer loan licensing requirements under the La. Consumer Credit Law.

Proposed law repeals present law.

Effective July 31, 2009.

(Amends R.S. 6:1081, 1082, 1083(3.1)(intro. para.), (3.2), (4)(intro. para.), (5), (6), (9), (11), and (12), 1084, 1086, 1087(E) and (F), 1088, 1088.1(A)(4) and (C), 1089, 1090(A), (C), (D), (E), (F), and (H), 1091, 1092(A)(intro. para.), (1), (5), (6), (B), (C), (E), (G), (I), and (K), 1092.2, 1094, 1096(I)(1), 1098(C), and 1099, and R.S. 9:3511(F); Adds R.S. 6:1083(6.1), (13), (14), (15), (16), (17), (18), (19), and (20), 1087(D) and (G), 1088.1(A)(9) and (E), 1088.2, 1088.3, 1088.4, 1092(A)(17)(a)(iv) and (v), 1094.1, and 1097(C) and R.S. 9:3557(C); Repeals R.S. 6:1083(1), 1092(A)(3), (4), (7), (8), (9), (10), (11), (12), (13), (15), and (17), 1093, and R.S. 9:3560(A)(10))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Makes technical changes.
2. Makes changes to the legislative findings.
3. Adds a provision to the definition of "employee".
4. Makes changes to prohibitions by persons or individuals engaged in residential mortgage lending activity.
5. Adds an exemption from licensing provisions to persons engaged in residential lending activities as a residential mortgage loan originator.
6. Changes the structure of the required amount of the surety bond for lenders, brokers, and originators.

7. Requires the commissioner to submit an annual report to the House and Senate commerce committees and the division of administration.
8. Provides for a provision regarding applicants with multiple office locations.
9. Allows consumer loans to be contractually subject to the La. Consumer Credit Law.
10. Changes Residential Mortgage Lending Act to La. S.A.F.E. Residential Mortgage Lending Act.
11. Provides a severability clause for certain provisions of the definition of "employee".

House Floor Amendments to the engrossed bill.

1. Makes technical changes.
2. Adds a definition of "mortgage servicer loss mitigation specialist".
3. Provides for an exemption to mortgage servicer loss mitigation specialists.
4. Redesignates a section of law.
5. Provides a severability clause for certain provisions of the definition of "mortgage servicer loss mitigation specialist".